

1		BEFORE THE	
2		ILLINOIS COMMERCE COMMISSION	
3	IN THE MATTER OF:	)	
		)	
4	STATE OF ILLINOIS, DEPARTMENT	)	
	OF TRANSPORTATION,	)	
5		)	
	Petitioner,	)	
6		)	
	vs.	)	No. T10-0174
7		)	
	BNSF RAILWAY COMPANY,	)	
8		)	
	Respondent.	)	
9		)	
	Petition for an order	)	
10	authorizing the construction	)	
	of a new grade structure over	)	
11	the BNSF Railway at IL 13	)	
	(FAP 331) and a new at-grade	)	
12	crossing for the frontage road	)	
	in the City of Marion,	)	
13	Williamson County, Illinois.	)	
14	Chicago, Illinois		
	March 16, 2011		
15			
	Met, pursuant to notice, at 2:00 p.m.		
16			
	BEFORE:		
17			
	Mr. Timothy E. Duggan, Administrative Law Judge		
18			
	APPEARANCES:		
19			
	MS. GLORIA M. CAMARENA		
20	100 West Randolph Street		
	Suite 6-600		
21	Chicago, IL 60601		
	(312) 793-2965		
22	for the petitioner;		

1 APPEARANCES (cont.):

2 DALEY MOHAN GROBLE, by  
3 MR. ROBERT J. PRENDERGAST  
4 55 West Monroe Street  
5 Suite 1600  
6 Chicago, IL 60603  
7 (312) 422-0799  
8 for the respondent;

9 MR. JOHN R. SALADINO  
10 527 East Capitol Avenue  
11 Springfield, IL 62701  
12 (217) 785-8423  
13 for ICC Staff.

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26 SULLIVAN REPORTING COMPANY, by  
27 Jean M. Plomin, CSR, RPR  
28 License No. 084-003728

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I N D E X

<u>Witnesses:</u>	<u>Direct</u>	<u>Cross</u>	<u>Re- direct</u>	<u>Re- cross</u>	<u>By Examiner</u>
S. Hansen	7	15 37	61 71 74	64 69 73	47 72
F. Thompson	78	99 107			111

E X H I B I T S

<u>Number</u>	<u>For Identification</u>	<u>In Evidence</u>
Pet. 3, 4	17	
Pet. 1, 3, 4, 5		76
Pet. 2		77
Resp. 2, 3, 6, 7		122

1 JUDGE DUGGAN: Pursuant to the authority vested  
2 in me by the State of Illinois and the Illinois  
3 Commerce Commission, I call Docket T10-0174 for a  
4 hearing.

5 May we have the appearances for the  
6 record starting with the Department of  
7 Transportation.

8 MS. CAMARENA: Good afternoon, your Honor.

9 Gloria M. Camarena. I represent the  
10 Illinois Department of Transportation. Address is  
11 100 West Randolph, Suite 6-600, Chicago, Illinois,  
12 60601. Office number is (312) 793-2965.

13 JUDGE DUGGAN: And the appearance on behalf of  
14 BNSF.

15 MR. PRENDERGAST: Good afternoon, your Honor.

16 Bob Prendergast from the law firm of  
17 Daley Mohan Groble, 55 West Monroe Street,  
18 Suite 1600, Chicago, 60603. Phone number,  
19 (312) 422-0799 representing the BNSF. And Mr. French  
20 Thompson is with me today, the manager of public  
21 projects for the BNSF.

22 JUDGE DUGGAN: Okay. Commission Staff.

1           MR. SALADINO: Your Honor, John Saladino,  
2   S-a-l-a-d-i-n-o, representing the Staff of the  
3   Railroad Safety Section, 527 East Capitol Avenue,  
4   Springfield, Illinois, 62701. The phone number is  
5   area code (217) 785-8423.

6           JUDGE DUGGAN: Okay. Is everybody else here  
7   witnesses?

8           MS. CAMARENA: Yes.

9           JUDGE DUGGAN: Okay. Will all the witnesses  
10   raise your right hand.

11                               (Witnesses sworn.)

12           JUDGE DUGGAN: Just a preliminary matter here:  
13   Mr. Prendergast has filed an affirmative defense  
14   basically alleging that the petition fails to state a  
15   claim upon which relief can be granted.

16                               You want to argue that,  
17   Mr. Prendergast?

18           MR. PRENDERGAST: I guess I would waive  
19   argument, your Honor. I didn't have that in front of  
20   me. I have made no statement with regard to that.

21           JUDGE DUGGAN: Okay. Well --

22           MR. PRENDERGAST: I withdraw it for purposes of

1 the hearing.

2 JUDGE DUGGAN: Good enough.

3 Well, for purposes of the entire  
4 docket I've got to assume because -- I mean, I assume  
5 you're just saying that you won't object to the  
6 hearing going forward?

7 MR. PRENDERGAST: No, I don't object to the  
8 hearing going forward, your Honor.

9 JUDGE DUGGAN: Okay. Are you withdrawing it  
10 for all purposes?

11 MR. PRENDERGAST: Yes, your Honor.

12 JUDGE DUGGAN: Okay. Then leave to withdraw  
13 the first affirmative defense on behalf of BNSF is  
14 granted.

15 Any preliminary issues on anybody's  
16 behalf?

17 Ms. Camarena, any preliminary issues?

18 MS. CAMARENA: No, your Honor. I think we're  
19 good to go.

20 JUDGE DUGGAN: Okay. Mr. Prendergast, any  
21 preliminary issues?

22 MR. PRENDERGAST: No, your Honor.

1 JUDGE DUGGAN: Mr. Saladino, any preliminary  
2 issues?

3 MR. SALADINO: No, your Honor.

4 JUDGE DUGGAN: Okay. Then Ms. Camarena, if you  
5 want to call your first witness.

6 MS. CAMARENA: Yes, your Honor.

7 I would like to go ahead and call  
8 Stan Hansen.

9 STANLEY PAUL HANSEN,  
10 called as a witness herein, having been first duly  
11 sworn, was examined and testified as follows:

12 DIRECT EXAMINATION

13 BY

14 MS. CAMARENA:

15 Q Stan, can you please give your full name  
16 spelling and your exact title, please.

17 A Yes. Stanley Paul Hansen, H-a-n-s-e-n,  
18 with Crawford Murphy & Tilly, Group Manager for the  
19 Highway and Bridge Group. Address is 2750 West  
20 Washington, Springfield, Illinois, 62702.

21 Q Mr. Hansen, can you please for the record  
22 explain your role in this project regarding Illinois

1 Route 13.

2 A Yes. We were hired by District 9, IDOT  
3 District 9, to do the preliminary engineering which  
4 included the Phase 1 studies and are now currently  
5 doing the Phase 2 design for the completion of the  
6 Route 13 grade separation and the associated frontage  
7 road paralleling Route 13.

8 Q And in regards to you working on the design  
9 regarding this project, you mentioned a frontage  
10 road.

11 Can you please let us know exactly  
12 what is decided for that project in regards to the  
13 frontage road that you're referring to.

14 A I missed part of that question, Gloria.  
15 I'm sorry. Something about the frontage road.

16 Q Yes. If you could please explain to us  
17 what you discovered in your studies regarding the  
18 frontage road as part of this project.

19 A Yes. With the grade separation, going to  
20 grade separate the BNSF railroad and also propose to  
21 grade separate over Marathon Drive, an existing  
22 at-grade intersection, that roadway is going to be



1     elevated to an elevation that's going to preclude  
2     access to the adjacent properties that are located to  
3     the south of Route 13. And with the current local  
4     land use plan and with eliminating this access, we  
5     are looking to construct a parallel frontage road  
6     from Skyline Drive to Walton Way that would provide  
7     the access and also allow for the future land use  
8     plan to be implemented that the City currently has on  
9     file.

10                     In addition to that, the District had  
11     prepared a study for this corridor that identified  
12     some high accident locations in proximity of Skyline  
13     Drive to Marathon which is the area where the  
14     railroad crossing is. And with the traffic volumes  
15     that currently exist and the anticipated increase in  
16     volumes with the development, we're looking to, you  
17     know, grade separate, you know, that crossing and  
18     provide a frontage road with an at-grade crossing  
19     with a much lower traffic volume.

20             Q     Stan, in regards to the project, do you  
21     know who will be bearing the entire cost of this  
22     project?

1           A     Right now the Department is planning to pay  
2     for the entire project.

3           Q     And this would include as well the frontage  
4     road?

5           A     That's correct.

6           Q     I believe there was also some concerns that  
7     were raised in regards to the design regarding the  
8     vertical clearance. I believe we had it at 23.

9                     Do you know if that has been addressed  
10    or changed?

11          A     Yes. That has been modified during the  
12    design phase. Currently we're preparing the  
13    construction plans for that bridge at a 23-foot  
14    4-inch vertical clearance over the rail.

15          Q     And does that meet any requirements that  
16    BNSF would have concerns with?

17          A     Our understanding is that meets their  
18    policy in addition to the Department's minimum.

19          Q     Do you know if you have received any kind  
20    of reviews or comments back -- or the District -- in  
21    regards to the TS&L plans regarding the project?

22          A     I think I have one letter from last year

1     that was preliminary feedback on our initial TS&L  
2     plan.

3             Q     And do you have that in front of you?

4             A     Yes.   It's dated May 10, 2010.

5             MS. CAMARENA:   Okay.   Your Honor, I don't think  
6     that has been introduced into part of our exhibits.  
7     But if need be, we can go ahead and do that at this  
8     time.

9     BY MS. CAMARENA:

10            Q     And what was the date on that again, Stan?

11            A     It's dated May 10, 2010, a letter from BNSF  
12     Railway to Greg McLaughlin with District 9.

13            Q     Okay.   And looking at that letter, there  
14     was some comments from BNSF regarding their concerns  
15     regarding the TS&L, and one of them was the vertical  
16     clearance which you've just addressed.

17            A     Correct.

18            Q     The other concern was the overpass  
19     abutments proposed regarding the BNSF and the MSE  
20     construction lacking the railroad crash protection.

21                         Do you know if that has been  
22     addressed?

1           A     Yeah. Well, the MSE and the abutments are  
2 outside of the railroad right-of-way, and that was a  
3 concern that they not be constructed within the  
4 right-of-way. And also the piers that are proposed  
5 for this three-span structure are also outside of the  
6 railroad right-of-way.

7           Q     Okay.

8           A     So I believe that should address their  
9 concern there.

10          Q     Okay. Also, do you know if any letters or  
11 responses via e-mail have been sent to us regarding  
12 the preliminary engineering that was dated April 13th  
13 that was submitted for their review as well?

14          A     I'm not aware of that, Gloria.

15          Q     I believe the April 13th letter was sent by  
16 our acting section chief preliminary engineer to  
17 Mr. Chad Scherwinski.

18          JUDGE DUGGAN: You want to spell that name.

19          MS. CAMARENA: Mr. Chad Scherwinski,  
20 S-c-h-e-r-w-i-n-s-k-i. And at that time he was the  
21 manager of public projects for BNSF.

22          MR. PRENDERGAST: Your Honor, I'd just like to

1 interpose an objection. I have not seen this as one  
2 of IDOT's exhibits. I'd at least like to be able to  
3 look at it if there's going to be questioning on this  
4 document at a minimum.

5 JUDGE DUGGAN: Do you have a copy for  
6 Mr. Prendergast?

7 MS. CAMARENA: Yes, I do. I apologize. I  
8 thought that was part of our --

9 MR. THOMPSON: That's the May 10th.

10 MR. PRENDERGAST: Yeah. That's the May 10th  
11 letter. We had that. That's why I didn't voice an  
12 objection to it.

13 MS. CAMARENA: This was -- I'm sorry -- the  
14 April 13th. I thought that was part of our --

15 MR. PRENDERGAST: All right. Thank you.

16 BY MS. CAMARENA:

17 Q And there's not much -- do you know, Stan,  
18 if we have gotten any responses regarding the  
19 preliminary engineering agreements that were sent to  
20 them?

21 A I'm not aware if we have.

22 Q Okay. Do you know by any chance how -- or

1     what kind of funding the Department is planning on  
2     using for this project?

3             A     Yeah. I think it's programmed in the  
4     Capital Bill or the Jobs Now program to be funded  
5     through that.

6             Q     Okay. Let's see. I'm not sure if you are  
7     aware or you may know the answer, but do you know if  
8     the City of Marion where this project will take place  
9     has any objection to the project as planned?

10            A     They've been involved in the preliminary  
11     and design engineering and have attended some of the  
12     coordination meetings, and to date they seem to be in  
13     favor of the project. And we've, you know,  
14     coordinated the proposed improvements to be  
15     consistent with their local policies as well.

16            MS. CAMARENA: Okay. I think for the moment  
17     right now, your Honor, I think that's all we have in  
18     regards to questioning.

19            JUDGE DUGGAN: All right. Mr. Prendergast.

20            MR. PRENDERGAST: Yes, your Honor.

21

22

1 CROSS-EXAMINATION

2 BY

3 MR. PRENDERGAST:

4 Q Sir, do you have a copy of the May 10,  
5 2010, letter from Chad Scherwinski to Greg McLaughlin  
6 in front of you?

7 A Yes.

8 Q Okay. And could you read into the record  
9 the first sentence of the first paragraph of that  
10 letter.

11 JUDGE DUGGAN: That letter was the April 13th  
12 letter, wasn't it?

13 MR. PRENDERGAST: No, that's my point. It's a  
14 response to the April 13th letter.

15 JUDGE DUGGAN: I thought it said -- okay. It's  
16 from BNSF to Greg McLaughlin, but that was from  
17 Chad Scherwinski.

18 MR. PRENDERGAST: Right. He was French  
19 Thompson's predecessor.

20 JUDGE DUGGAN: And, also, are you planning on  
21 introducing that letter as an exhibit?

22 MR. PRENDERGAST: Am I? Not really. I just

1     want to ask a few questions about it.  Do you --

2             MS. CAMARENA:  Yeah, I would like to, if we

3     can, introduce it into evidence.

4             JUDGE DUGGAN:  Okay.  Well, then why don't we

5     have it marked as an exhibit.  And that way we can

6     refer to it that way.

7             MS. CAMARENA:  Okay.

8             MR. SALADINO:  Your Honor, I think we need both

9     of those marked as exhibits.

10            MS. CAMARENA:  Right.

11            MR. SALADINO:  Both the letter from April 13th

12     and then also the response.

13            JUDGE DUGGAN:  Right.

14            MR. SALADINO:  Staff doesn't have a copy.

15            MS. CAMARENA:  Okay.  And, your Honor, I guess

16     to be consistent with the petition, we already have

17     two exhibits that were in the petition marked as

18     Exhibit 1 and 2, so I don't know if, to follow

19     consistency, you'd want us to go ahead and label the

20     April 13th letter and the May 10th as 3 and 4, or how

21     would you like us to handle that?

22            JUDGE DUGGAN:  Well, I see A and B and 2.  But



1 I don't see Exhibit 1 attached to the petition.

2 MS. CAMARENA: Exhibit 1 is the TS&L.

3 MR. SALADINO: Here's the original one.

4 JUDGE DUGGAN: Yeah, I mean, it sounds like 3  
5 would be the way to go.

6 MS. CAMARENA: Okay. So the April 13th -- just  
7 to be consistent with the dates -- then the  
8 April 13th letter addressed to Mr. Chad Scherwinski  
9 will be marked as IDOT's Exhibit 3.

10 JUDGE DUGGAN: All right. That sounds good.

11 MS. CAMARENA: And then the May 10th letter  
12 response from BNSF to Mr. Greg McLaughlin will be  
13 marked as IDOT's Exhibit 4.

14 (Whereupon, Petitioner's Exhibit  
15 Nos. 3-4 were marked for  
16 identification by Counsel.)

17 MR. PRENDERGAST: Could I see the April letter  
18 again?

19 JUDGE DUGGAN: Okay. You can go ahead,  
20 Mr. Prendergast.

21 BY MR. PRENDERGAST:

22 Q Why don't I start my question over again.

1                   Mr. Hansen, the April 13th letter of  
2   2010 from Janet Pisani (phonetic) to Chad  
3   Scherwinski, that's marked as Exhibit 3; is that  
4   correct?

5           JUDGE DUGGAN:   Well, he wouldn't really know.  
6   But tell him it is.   How's that?   The April 13th  
7   letter is now Exhibit 3.

8           MR. PRENDERGAST:   Assume it's marked as  
9   Exhibit 3.   Okay?

10          JUDGE DUGGAN:   Okay.   We'll all agree upon  
11   that.

12          MS. CAMARENA:   Yes.

13          MR. PRENDERGAST:   Okay.

14   BY MR. PRENDERGAST:

15          Q   And I thought you had said before in your  
16   testimony that there was no response to that letter  
17   from the BNSF.

18                   I would ask you to take a look at  
19   Exhibit 4 which is May 10, 2010, and ask you to take  
20   a look at that letter.

21          A   I thought that Gloria asked if there was a  
22   response to the May 2010 letter.   Maybe I

1     misunderstood the question. I didn't know if there  
2     was any response or follow-up since May of 2010.

3                     But, yeah, the May 2010 was the letter  
4     I spoke of earlier and it does reference the  
5     April 13th letter.

6             Q     Just so the record is clear, BNSF did  
7     respond to the April 13, 2010 letter with a letter of  
8     May 10, 2010, that's marked as Exhibit 4?

9             JUDGE DUGGAN: Now, you refer to it as May 10;  
10    you've referred to it as May 20.

11            THE WITNESS: May 10, 2010. I'm sorry.

12            JUDGE DUGGAN: So it's May 20, 2010; is that  
13    correct?

14            MR. PRENDERGAST: Correct.

15            THE WITNESS: No. May 10, 2010.

16            JUDGE DUGGAN: Okay. I gotcha now.

17                     All right. I want to make sure we're  
18    all talking about the same letter.

19    BY MR. PRENDERGAST:

20            Q     Do you understand the question that's  
21    pending, Mr. Hansen?

22            A     Yes. I see that there was an April 13th

1 letter from the Department to BNSF, and I see that  
2 this May 10th of 2010 is a response that references  
3 that letter.

4 Q Okay. So Exhibit 4 or the May 10, 2010  
5 letter was a response to the April 13, 2010 letter;  
6 is that correct?

7 A It references it in the initial body of  
8 that. I'm not sure if it's a complete response to it  
9 or not but, yes.

10 Q Okay. And contained in the May 10, 2010  
11 letter under the fifth bullet point it states, BNSF  
12 finds the additional proposed new at-grade crossing  
13 to be unacceptable design considerations -- or design  
14 consideration should be made to grade separate this  
15 roadway as well. Do you see that?

16 A Yes.

17 Q Would it be fair to say that BNSF has been  
18 up front in its objection to the grade crossing on a  
19 proposed frontage road?

20 A Yes.

21 Q Who's the proposed road authority for the  
22 frontage road?

1           A     Well, it's a State of Illinois Department  
2     of Transportation project right now. But my  
3     understanding is that it would be a local agency  
4     street once the project was completed and accepted by  
5     the Department and turned over to the City of Marion.

6           Q     So ultimately the maintenance  
7     responsibility of the proposed roadway if it's  
8     approved will be the City of Marion?

9           A     That's correct.

10          Q     And you indicated that you understand that  
11     IDOT is going to pay for the cost of the bridge; is  
12     that correct?

13          A     For the cost of the proposed grade  
14     separation on Illinois Route 13, correct.

15          Q     And IDOT is going to pay for the frontage  
16     road as well?

17          A     They're proposing to fund the frontage road  
18     and the at-grade crossing that would be part of that  
19     project.

20          Q     Okay. And how about the signals?

21          A     They're proposing to fund the signals as  
22     well.

1           Q     Okay.  Are you here today to testify to the  
2     level of signalization or safety concerns at the  
3     proposed crossing, or is another witness going to  
4     cover it?  I don't want to ask you a bunch of  
5     questions that you're not going to testify about.

6           A     No.  I mean, we have -- with part of the  
7     Department's programming and planning, we have, you  
8     know, developed some estimates for that work.  But we  
9     have not, I guess, coordinated anything with, you  
10    know, the Railroad or the Department on what the  
11    actual installation features will be there.

12          Q     Okay.  That's exactly what I want to know.  
13                   Are there any current design plans for  
14    the roadway crossing that are going to be submitted  
15    with this petition?

16          A     There are, you know, roadway plans that  
17    are, you know, being designed right now for the  
18    crossing, the at-grade crossing, and those are, you  
19    know -- propose to be coordinated with the Railroad  
20    on the protection -- warning devices.

21          Q     Okay.  Would it be fair to say that today  
22    you have no plans or schematics or diagrams to submit

1 as to what the characteristics and the dimensions of  
2 the grade crossing are going to be?

3 A No, we have that all here.

4 Q Have you shared those with anyone outside  
5 of IDOT?

6 A Probably the City of Marion. And I don't  
7 know that anybody else maybe has -- utility  
8 companies -- have been coordinating with the  
9 utilities.

10 Q Have those plans been shared with the BNSF?

11 A I don't think they've been -- the current  
12 plans that we have have probably not been submitted  
13 to BNSF.

14 Q Who was answering that question? I'm  
15 sorry?

16 A This is Stan Hansen.

17 Q Okay. I'm sorry. Okay. It's kind of hard  
18 to tell who's talking on the video. I apologize.

19 Who is proposed, that if this crossing  
20 is accepted and installed, who is going to propose to  
21 do the work on the crossing?

22 A Well, do you mean the roadway work or the

1 railroad related work?

2 Q The crossing work, you know, who's going to  
3 install the crossing surfaces?

4 A Well, I would anticipate that the  
5 Department will coordinate the actual crossing  
6 installation with the Railroad directly and would be  
7 part of the construction of the frontage road.

8 Q And who is going to pay for the work to  
9 install the crossing surface if it's approved?

10 A The Department still plans to pay for the  
11 crossing and the warning devices associated with  
12 that.

13 Q And has there been any agreement or is  
14 there a proposal as to who's going to have the  
15 continued maintenance of the crossing surface and the  
16 signals?

17 A That, I'm not aware of.

18 Q What's the distance of the frontage roadway  
19 from Route 13?

20 A It varies, but it's approximately 300 feet  
21 and paralleling Route 13.

22 Q And what would be the distance from this



1 proposed frontage crossing to the overpass?

2 A It looks like at that location it's about  
3 500 feet along the skew of the railroad line.

4 Q Is that center to center?

5 A It's about edge to edge.

6 Q Which edge to which edge?

7 A That would be from the south edge of the  
8 eastbound structure of Illinois 13 over the railroad  
9 to the west edge of the new frontage road at-grade  
10 crossing with the railroad. It would be about  
11 approximately 500 feet.

12 Q The west edge or the north edge?

13 A The north edge of the frontage road.

14 Q Is there a related project involved for  
15 economic development in the area south of Route 13  
16 between Skyline and -- is it Walton Way?

17 A There has been development considered as  
18 part of the future land use plan, but I am not aware  
19 of a particular project -- a development project  
20 that's been secured at this time.

21 Q So as of today's date, there's no secured  
22 developments for the property between Walton Way and

1 Skyline?

2 A Not that I'm aware of. There's been  
3 discussion and planning to try to accommodate that,  
4 but I don't think anything has been, you know,  
5 secured for that.

6 Q Okay. Is there a proposed bike path in  
7 conjunction with this project?

8 A There's a multiuse path proposed along the  
9 south side of the frontage road that parallels it the  
10 entire length of the frontage road.

11 Q Where is this --

12 A It crosses the railroad as well.

13 Q Okay. That was one of the questions I was  
14 going to ask.

15 The proposal is to have the bike path  
16 cross the railroad tracks in the vicinity of the  
17 proposed frontage road crossing?

18 A That's correct.

19 Q Has there been any signalization plans or  
20 warning protective devices as part of this proposed  
21 bike path, multiuse path crossing at the railroad  
22 tracks?

1           A     It's anticipated, but the design of that  
2     wasn't included in the scope of our work.  That's  
3     something that the Department still plans to  
4     coordinate prior to opening the crossing.

5           Q     What's the proposed length of this multiuse  
6     path?

7           A     The proposed length?

8           Q     Correct.  Where does it start and where  
9     does it finish?

10          A     It starts east of Skyline.  I'll look up  
11     the --

12          JUDGE DUGGAN:  Let me ask you, is the bike path  
13     the same length as the frontage road or is it longer?

14          THE WITNESS:  It's a little bit shorter, your  
15     Honor.  It does not quite extend all the way to  
16     Skyline.  It stops about 200 feet short.  But then  
17     from 200 feet east of Skyline, it extends through the  
18     railroad, through the proposed intersection with  
19     Marathon Drive and all the way down close to the  
20     connection with Walton Way.  It stops a little bit  
21     short of the Walton Way connection since there isn't  
22     an extension of that right now.

1 JUDGE DUGGAN: And that's shown on what? What  
2 are you looking at?

3 THE WITNESS: This is our engineering drawings  
4 that we're currently working on with the Department.

5 JUDGE DUGGAN: Okay. So what you're looking at  
6 isn't an exhibit?

7 THE WITNESS: Correct.

8 BY MR. PRENDERGAST:

9 Q What's the proposed use of this multiuse  
10 bike path, pedestrian walkway?

11 A Yeah. It's to be a shared path, you know,  
12 for pedestrians and bicyclists from the anticipated  
13 development in this area underneath the Route 13, you  
14 know, grade separation over Marathon Drive and to a  
15 more existing commercial area which is the existing  
16 mall for Marion that is north of Route 13.

17 So it's a connecting walkway to allow  
18 pedestrians and bicyclists to get across Route 13  
19 without physically going across the state route  
20 itself. They can go beneath it.

21 Q Do you have any knowledge of the traffic  
22 counts for the proposed frontage road crossing?

1           A     With it not being an existing facility,  
2     there's not any counts. We have looked at  
3     projections with the traffic study that was conducted  
4     with this grade separation project. And at the year  
5     2014, the projections I think were like 2,200  
6     vehicles a day. And in the 20-year design, I think  
7     they were up closer to 2,700 vehicles a day. Let me  
8     check my notes.

9           Q     Do you know who performed those studies?

10          A     Yes. Crawford Murphy & Tilly did as a  
11     consultant to the Department.

12          Q     Are you familiar with the manner in which  
13     those were performed, or is that another person's  
14     expertise at Crawford?

15          A     I was the manager of this project. And one  
16     of my professional traffic engineers conducted the  
17     traffic study and, I mean, I was familiar with the  
18     approach, I guess, the studies that were conducted  
19     for it.

20          Q     Was there any projections made as to how  
21     many bicyclists or pedestrians would use the crossing  
22     over the railroad?

1           A     I don't believe so. I don't think we have  
2     any forecasts on that since it's contingent really  
3     upon the type of development and, I guess, you know,  
4     when any of that development would occur.

5           Q     Are you familiar with a roadway by the name  
6     of Skyline?

7           A     Yes. Skyline is the west termini of this  
8     project, and it's the south leg of the 13 grade  
9     separation project.

10          Q     Okay. The commercial area that you  
11     described north of Route 13, what's contained in that  
12     area?

13          A     The main part of that is the Illinois  
14     Center Mall for Marion, and then there is some  
15     out lots associated with that that have some retail  
16     and restaurants.

17          Q     And how many different roadways provide  
18     access to that currently?

19          A     Right now off of Route 13, Sinclair and  
20     Marathon go directly into the frontage road to the  
21     mall. Skyline that you mentioned and Walton Way are  
22     the next two roads each direction from Marathon and

1 Sinclair. And you can get access, you know, off of  
2 those. But Marathon and Sinclair are the two direct  
3 signalized intersections that go into that mall area.

4 Q Okay. Is there a roadway off of Walton Way  
5 that encircles that commercial area north of  
6 Route 13?

7 A Yes.

8 Q Is that known as Williamson County Parkway?

9 A That's Walton Way on the north side of  
10 Route 13, I think, is maybe the --

11 MS. NELSON: It doesn't encircle it.

12 JUDGE DUGGAN: Let me ask you this -- okay.  
13 The people in Springfield are referring to a big,  
14 nice color map that -- is that going to be marked as  
15 an exhibit?

16 Okay. Ms. Camarena, do you know  
17 anything about this big color map we have here?

18 MS. CAMARENA: I don't have --

19 JUDGE DUGGAN: An aerial view.

20 MR. PRENDERGAST: Nobody in Chicago has that,  
21 your Honor.

22 MS. CAMARENA: I don't have that. But I do --

1 let's see. I believe you had one, too, in your  
2 exhibits that you introduced, did you not, that you  
3 sent to us?

4 JUDGE DUGGAN: There's Respondent's Exhibit 3  
5 which is a Google map that would -- that's not very  
6 good.

7 MS. NELSON: There's our map off the Internet,  
8 the one that came in today.

9 MS. CAMARENA: Yes.

10 MS. NELSON: So it's in there.

11 MS. CAMARENA: It's in there.

12 JUDGE DUGGAN: Okay. So, Ms. Camarena, you  
13 didn't intend to introduce this aerial, full color  
14 document as an exhibit?

15 MS. CAMARENA: I figured we would do it here at  
16 the hearing if need be since there wasn't any way I  
17 could get that scanned or how you would want me to  
18 get that to you on the E-docket.

19 But I do know that BNSF yesterday sent  
20 in the evening, late afternoon, the exhibit list that  
21 they were planning on introducing and I believe they  
22 did have in there the aerial view.



1 JUDGE DUGGAN: Respondent's Exhibit 2?

2 MS. CAMARENA: 2 and 3, yeah.

3 JUDGE DUGGAN: 3 is a Google map.

4 MS. CAMARENA: Oh, okay. 2.

5 JUDGE DUGGAN: 4 is an aerial.

6 Well, I'm just wondering if any of

7 these would actually --

8 MR. SALADINO: I think Exhibit 3, your Honor,

9 shows the circle that Mr. Prendergast was referring

10 to.

11 MS. CAMARENA: And I believe you have a copy of

12 that with you, don't you?

13 MR. THOMPSON: Yeah. It's Exhibit 3.

14 MS. CAMARENA: Yeah. But you probably have it

15 in color. All I was able to get was the copies.

16 MR. THOMPSON: Yeah.

17 MS. CAMARENA: Yeah -- I mean...

18 JUDGE DUGGAN: I'm not sure, Mr. Prendergast,

19 if you look at Respondent's Exhibit 3 if that would

20 be helpful in your questioning.

21 MR. PRENDERGAST: Yeah. That's basically what

22 I was referring to. Right. Yes.

1                   If you want, I can refer the witness  
2   to Respondent's Exhibit 3, if he has it.

3           JUDGE DUGGAN:   Why don't we do that so we can  
4   all follow along.

5   BY MR. PRENDERGAST:

6           Q     Mr. Hansen, taking a look at Respondent's  
7   Exhibit 3, does that truly and accurately show the  
8   various roadways that are in the vicinity of that  
9   mall that's located north of Route 13?

10          A     Yes.

11          Q     Okay.   And if we look at Skyline Drive and  
12   go north, there's another at-grade crossing on  
13   Skyline Drive; is that correct?

14          A     Correct.

15          Q     And that's a signalized at-grade crossing?

16          A     I believe so.

17          Q     Okay.   And would you have any idea what the  
18   traffic volume is on that roadway?

19          A     I think I have the traffic for the north  
20   side of Skyline.

21                         We have the Skyline forecasted traffic  
22   north of Route 13 that were forecasted in the traffic

1 study prepared for the grade separation. And we have  
2 volumes in the peak hour for the year 2014 and the  
3 year 2034, those two design years.

4 Q What's the numbers for the peak volume in  
5 2014?

6 A I'll have to add it together, but I can  
7 give you that here.

8 The peak volume on Skyline for 2014  
9 would be approximately 600 vehicles, two-way traffic,  
10 and that would equate to approximately 6,000 vehicles  
11 on average daily traffic.

12 Q Okay. And North Skyline intersects with  
13 Route 13; is that correct?

14 A That's right, on the north side of the  
15 Skyline intersection with Route 13, the north lane.

16 Q And there's a traffic light there; is that  
17 true?

18 A There's an existing traffic signal at that  
19 intersection, correct.

20 Q Okay. And do you plan on keeping that with  
21 the proposed bridge?

22 A Yes.

1           Q     Okay.  And will the proposed overpass touch  
2     down east of North Skyline?

3           A     The proposed overpass will touch down right  
4     in the vicinity of the Skyline intersection.

5           Q     Okay.

6           A     We're going to do some grade adjustments at  
7     that intersection to accommodate the new overpass.

8           Q     All right.  But that would still be a  
9     traffic light controlled intersection?

10          A     That's correct.

11          Q     And so currently and under the proposed  
12     project, there is access from North Skyline to  
13     Route 13?

14          A     Yes.

15          Q     And if we went north on North Skyline  
16     across the railroad tracks, then there would be  
17     access to the mall area as well; is that correct?

18          A     That's correct.

19          Q     So either now or under the proposed bridge  
20     structure, North Skyline would provide a route from  
21     Route 13 to the mall area north of Route 13; is that  
22     true?

1           A     Yes.

2           Q     And how far is the north -- strike that.

3                     What's the distance from the North

4     Skyline grade crossing where it intersects the BNSF

5     tracks from the area -- from the grade crossing

6     currently at Route 13 and the BNSF tracks?

7           A     It looks like from the center of the

8     proposed grade separation on Illinois Route 13 to the

9     center of the existing at-grade on Skyline is

10    approximately 1,700 feet.

11          Q     Okay. So the proposed bridge overpass

12    project is essentially requesting three crossings

13    over the railroad tracks within your calculations of

14    approximately 2,200 feet?

15          A     That's correct.

16          MR. PRENDERGAST: That's all I have. Thank you.

17          JUDGE DUGGAN: Mr. Saladino.

18          MR. SALADINO: Yes. Thank you, your Honor.

19                     CROSS-EXAMINATION

20                     BY

21                     MR. SALADINO:

22          Q     Mr. Hansen, do you have an estimate on the

1 overall cost of this project?

2 A Well, the estimate I believe right now is  
3 around 44 million for the grade separation.

4 Q Okay. And is the Department that you're  
5 aware of requesting Grade Crossing Protection Funds  
6 from the Commerce Commission?

7 A No, they're not.

8 Q Do you know if a letting date for this  
9 project has been established?

10 A Yeah. Currently looking at a June 2011  
11 letting for the frontage road project and an August  
12 of 2011 for the grade separation.

13 Q Okay. And do you have a time frame or  
14 completion dates with either of those projects?

15 A For the engineering?

16 Q No. I'm sorry. For the construction.

17 A Oh, for the completion of construction?

18 Q Are those letting dates for the  
19 construction?

20 A Correct.

21 Q Okay.

22 A Yes.

1           Q     Is there a completion date associated with  
2     each of those contracts?

3           A     I don't think we've set a firm completion  
4     date with either one of those contracts yet.  But I  
5     think both projects are to be completed to coincide  
6     with some adjacent improvements within two years.

7           Q     Okay.  So approximately two years from the  
8     letting date is a rough estimate on what you think  
9     the completion date should be?

10          A     I think we were looking at January of 2014  
11     at the latest.

12          MS. NELSON:  November of 2013.

13     BY MR. SALADINO:

14          Q     Do you know of or are you aware of any  
15     effect that the construction of these two -- well,  
16     one is a grade separation and one is an at-grade  
17     crossing -- any effect that that will have on the  
18     railroad's operations and whether or not IDOT has  
19     plans to handle any of those effects?

20          A     Well, I think, you know, the staging of the  
21     construction and the timing of maybe the opening of  
22     the at-grade and the completion of the first stage of

1 the grade separation will have to be coordinated with  
2 the Railroad to make sure that, I guess, all the  
3 improvements and warning devices are in place before  
4 traffic is switched on either facility. But that's  
5 anticipated to be done and staged in a manner to not  
6 disrupt the train traffic, I guess.

7 Q Okay. And you've already stated that the  
8 vertical clearance of the structure will be at least  
9 23-foot 4 inches; is that correct?

10 A That's correct.

11 Q Do you happen to know the horizontal  
12 distance from the nearest rail to the piers?

13 A On the existing track from the center line  
14 of the track to the near face of the pier is 53 feet  
15 4 inches proposed in the preliminary design.

16 Q Is that the same for both sides?

17 A Yes. The piers are centered about the  
18 existing right-of-way which is shown as 50 feet each  
19 side of the center of the existing track. And so the  
20 distance from the center of the track to the face of  
21 each pier on each side is 53 feet 4 inches.

22 Q Thank you.



1                   You told us the ADT for the frontage  
2 road was approximately 2,200 for the year 2014.

3                   Do you have a projected ADT for the  
4 grade separation structure for 2014 as well?

5           A     Yeah, I think we have that.

6                   For 2014 we were looking at 32,160  
7 vehicles a day.

8           Q     Okay. Thank you.

9                   I have a couple questions, again, on  
10 the frontage road.

11                   Do you know if the Department is  
12 seeking an order from the Commission that would  
13 include the multiuse path with this petition, or will  
14 it be separate, if you know that information?

15           A     I'm not sure I follow the question.

16           Q     The petition, I believe, asks for an order  
17 from the Commission to construct a new grade  
18 separation structure over BNSF at Illinois 13 and a  
19 new at-grade crossing for the frontage road in the  
20 City of Marion, Williamson County, Illinois.

21                   The question is, with this petition is  
22 the multiuse path that will be associated with the

1 at-grade crossing part of this petition? Is IDOT  
2 seeking an order from the Commission for that  
3 multiuse path in conjunction with the at-grade  
4 vehicular crossing?

5 A Their intent is to do the improvements  
6 concurrently. So they would want the at-grade  
7 crossing, I guess, to cover both facilities, the  
8 multiuse and the roadway itself.

9 Q Okay. And do you know the width of the  
10 crossing surface that IDOT is proposing for the  
11 at-grade crossing on the frontage road?

12 A That was still to be coordinated with the  
13 Railroad. But I think in estimating for programming  
14 purposes, we were looking at, like, 50 feet total  
15 width.

16 Q Okay. So estimated 50 feet.

17 As part of the design, do you know  
18 what type of warning devices that the Department is  
19 recommending be installed at this crossing?

20 A We haven't included that with the design.  
21 We were anticipating, in the programming again, that  
22 there would be, you know, warning gates and lights.

1 I think we were talking similar to maybe what was at  
2 Route 13, again, just for programming purposes to try  
3 and determine the magnitude of what might be  
4 installed.

5 Q Okay. Would you state the need for this  
6 grade separation and the frontage road.

7 A Sure. In our preliminary engineering,  
8 again, back to some of the studies that the  
9 Department completed for the entire corridor of  
10 Route 13 here in southern Illinois, it was identified  
11 that there were a high number of accidents that  
12 occurred on Route 13 especially in the area from  
13 Skyline to Marathon. And a majority of the accidents  
14 were rear-end collisions which, you know, led the  
15 study to believe that it could be a result of signals  
16 and multiple intersections and stopping with the  
17 railroad as well.

18 So with the increased traffic, with  
19 the concern for safety, adding a third lane to  
20 Illinois Route 13 along this corridor, there's been a  
21 proposed improvement to grade separate, you know,  
22 both the railroad and Marathon Drive eliminating two

1 signals that currently exist today. And looking at  
2 the traffic forecast with the increase from, you  
3 know, 32,000 plus or minus vehicles to 42,000 plus or  
4 minus vehicles, you know, it felt like a grade  
5 separation was appropriate for that facility.

6 But because of the access that was  
7 precluding the adjacent properties and because of the  
8 land use plan that the City had for the surrounding  
9 area, a frontage road was proposed as an extension of  
10 the existing frontage road that currently ends at  
11 Walton Way to be extended from Walton Way all the way  
12 to Skyline to accommodate access, better facilitate  
13 pedestrians, and have a much lower volume of traffic  
14 that would be using an at-grade crossing facility.

15 So that's the, I guess, primary  
16 reason -- safety, connectivity, consistency with the  
17 City's land use plan.

18 MR. SALADINO: Okay.

19 MS. CAMARENA: And, John, can I go ahead and  
20 interrupt?

21 Just before I forget, I know you had  
22 referred to asking about the agreement and having the

1     bike -- that is in the agreement that was submitted  
2     in our petition.  It's on Page 3.  It's under  
3     Section 6, Part C.  And it refers to the 10-foot  
4     multiuse path separate but parallel to the proposed  
5     frontage road.

6             MR. SALADINO:  Okay.  Thank you, Gloria.

7                     I just wanted to make sure it was  
8     clear on the record what the order -- what you were  
9     seeking in this order.

10            MS. CAMARENA:  Okay.

11     BY MR. SALADINO:

12            Q     Mr. Hansen, would you give us your opinion  
13     of pluses and minuses or what you believe would be  
14     the effect if the Commission did not issue an order  
15     either for the grade separation or for the frontage  
16     road, the detriment to the Department or the public?  
17     In your opinion, what would the Department do if this  
18     order was not issued?

19            A     I guess if the order is not issued and, you  
20     know, traffic continues to increase on the Route 13  
21     corridor as, you know, predicted, there's probably  
22     going to be an increase in the number of crashes that

1 will be realized in the future.

2 If the frontage road at-grade is not  
3 provided, the grade separation along Route 13 likely  
4 will not be able to be constructed because of the  
5 access that will be restricting the properties from  
6 there. There could be a potential that that grade  
7 separation project may not be pursued if the at-grade  
8 access can't be provided to the south.

9 And I think it's probably going to  
10 preclude the development -- economic development for  
11 Marion as anticipated in their current land use plan  
12 for this area. They've got development proposed  
13 south of 13 that without a frontage road and without  
14 direct access, that probably won't happen or occur.

15 MR. SALADINO: Okay. Thank you. That's all I  
16 have, your Honor.

17 JUDGE DUGGAN: What's the best map that shows  
18 the location of the overpass, the location of the  
19 frontage road?

20 Okay. And so I'm being pointed to a  
21 document that was not intended to be put in as an  
22 exhibit.

1                   Let's go off the record a second.

2                               (Whereupon, a discussion was had  
3                               off the record.)

4                   EXAMINATION

5                   BY

6                   JUDGE DUGGAN:

7           Q     Referring you to Petitioner's Exhibit --  
8     excuse me -- IDOT Petitioner's Exhibit 5, can you  
9     identify that?

10          A     Yes. This is an aerial picture that has  
11     the proposed Route 13 and frontage road improvements  
12     superimposed, an overlay.

13          Q     All right. And is that available on the  
14     Internet?

15          A     I believe that's correct, your Honor.

16          Q     Okay. And so on this, is there anything  
17     that depicts the beginning and ending of the  
18     overpass?

19          A     Not specifically. The overall project  
20     improvements begin west of Skyline and continue down  
21     past Sinclair, but the structure or the grade  
22     separation itself is depicted with the purple or

1 magenta color. That's the substructure elements that  
2 would be the limits of the overpass.

3 Q Okay. Let's do this: Running southeast to  
4 northwest and partially in brown, is that the  
5 railroad track?

6 A That's correct.

7 Q Is that one track, single track?

8 A That's currently a single track.

9 Q Okay. And then the blue running down the  
10 middle east/west is Route 13?

11 A That's Route 13 with the proposed expansion  
12 to six lanes.

13 Q Okay. Presently it's how many lanes?

14 A Four lanes.

15 Q Okay. So I assume there's one lane  
16 each direction -- excuse me -- there's three west and  
17 three east?

18 A Three lanes in each direction on Route 13  
19 with additional auxiliary lanes at the signalized  
20 intersections. On Route 13 there's three main lanes  
21 in each direction.

22 Q Okay. Now, when you talk about Skyline



1 Road, on this map that is the north/south road  
2 closest to the left edge of the document; is that  
3 correct?

4 A That's correct.

5 Q Okay. What other road were you using as a  
6 reference point?

7 A Well, this is Walton Way.

8 Q When you say "this," no one can tell what  
9 you're saying so Walton --

10 A The easternmost intersection, I guess, of  
11 the exhibit where the frontage road terminates at the  
12 east end is Walton Way.

13 Q Okay. So the frontage road is the yellow  
14 line that's running south and parallel to Route 13;  
15 is that correct?

16 A Correct.

17 Q Okay. And on this document it's running  
18 from Skyline Road all the way just short of that  
19 intersection you just referred to as Walton; is that  
20 correct?

21 A Correct.

22 Q Okay. And that is the frontage line as

1 proposed?

2 A Yes.

3 Q Okay. Presently the frontage line runs --

4 stops short -- excuse me -- the frontage road stops

5 short of the railroad; is that correct?

6 A There is no existing frontage road. It

7 stops at the Walton Way intersection. It only goes

8 east from there. This will be all new roadway.

9 Q There is no frontage road at all or there's

10 one where?

11 A There's a frontage road from the Walton Way

12 intersection to the east paralleling Route 13, but

13 there is no frontage road between Walton and Skyline

14 that exists today.

15 Q Okay. So there is another road right in

16 the center of this Petitioner's Exhibit 5 running

17 north and south across 13, correct?

18 A Right. Marathon Drive is the nearest

19 intersection to the east of the existing Route 13 and

20 railroad crossing. And it's the entrance into the

21 mall area. It currently terminates or T's at

22 Route 13 and does not extend south of Route 13 right

1     now.   That's a proposed extension south of 13 to tie  
2     into the proposed frontage road.   So that piece south  
3     of 13 does not exist today.

4           Q     Now, how will the overpass affect traffic  
5     on -- what is that road again?

6           A     Marathon Drive.

7           Q     Okay.   How will the overpass affect  
8     north/south traffic on Marathon Drive?

9           A     Well, the traffic on Marathon Drive will no  
10    longer have access directly to Route 13 because the  
11    grade separation will also go over Marathon, so there  
12    will be a bridge or a structure at the Marathon  
13    crossing as well that will grade separate, so the  
14    north/south traffic will be able to go underneath  
15    Illinois Route 13.

16          Q     So who is being cut off if you don't have  
17    the frontage road?

18          A     If we don't have the frontage road, there  
19    is five parcels that exist south of Route 13 that  
20    will have to get access in some manner.   They won't  
21    have direct access to 13.

22          Q     So those five parcels you're referring to

1       are the ones that are between Route 13 and the  
2       proposed frontage road?

3           A       Correct, yes.

4           Q       Does that -- what's that road?

5           A       Marathon Drive.

6           Q       Are they all -- are those five parcels  
7       you're referring to all west of Marathon Drive or is  
8       there some to the east?

9           A       There are some on both sides. I believe  
10       there are two different properties or parcels west of  
11       the railroad, and I think there are three east of the  
12       railroad.

13          Q       What about the parcels south of the  
14       proposed frontage road? How do they access any other  
15       roads?

16          A       Well, some of those have access off of  
17       Skyline. But some of these parcels extend on south.  
18       The parcels do not just stop at the frontage road;  
19       the parcels do extend south. The properties go south  
20       beyond the frontage road currently today.

21          Q       So there's some roads here that just aren't  
22       showing up?

1           A     No.  There are no roads out here.  They  
2     have access off of 13.  So this property south of the  
3     frontage road is still part of the same parcel;  
4     they're just going to be severed with the frontage  
5     road.

6           Q     I thought the entire purpose of the  
7     frontage road was to give them access.  You're saying  
8     the frontage road is what's -- they have access  
9     already.

10          A     They have at-grade access with Route 13,  
11     but it's going to be elevated 30 feet in the air so  
12     they won't be able to get access up to the grade  
13     separation anymore.

14          Q     I'm going to try it one more time.

15                     This is all kind of one parcel south  
16     of 13, correct?

17          A     There are parcels that join 13 that extend  
18     back off of 13, you know, a fair distance.  So some  
19     of their -- the depths of their lots off of Route 13  
20     sometimes are further than what the frontage road  
21     limits show.  In other words, they own from Route 13  
22     further south than the frontage road itself.

1           Q     And we're not concerned about the access of  
2     their further-south portions?

3           A     Well, it's going to be off the frontage  
4     road as well.  Once we sever the parcel, they'll be  
5     able to have access off the frontage road.  Right now  
6     all their access can come from 13, and they can go  
7     all the way back to the back.  Once 13 is grade  
8     separated, they won't be able to get off on 13, but  
9     they can get off on the frontage road and go north or  
10    south to their property once the frontage road is  
11    installed.

12          Q     But they can get on 13 back here?

13          A     They can, correct.

14          Q     And they can get on 13 over here and they  
15    can get on both east and west of the proposed grade  
16    separation, correct?

17          A     Right.  Well, some of the parcels are  
18    locked right in the vicinity of the grade separation.  
19    So in other words -- the property lines don't show up  
20    on this drawing -- some of the properties would still  
21    be in a location where 13 is not going to be grade  
22    separated.  But up here where these structures are

1     going to be, there are a couple parcels that will  
2     definitely be landlocked now that that grade  
3     separation is installed and they'll have to have  
4     access by some other means.

5           Q     Okay. They're actually landlocked, or it  
6     will just take them too long to get to the east and  
7     west for access?

8           A     Or there has to be another connection or  
9     access provided because that will be access  
10    controlled along, you know, Route 13. So there would  
11    have to be some other manner of access provided. If  
12    not the frontage road, it would have to be some sort  
13    of easement or something back to those lots.

14          Q     Okay. Now, is this in the city limits of  
15    Marion? When I say "this," I'll say your overpass  
16    structure.

17          A     I think all this is within the corporate  
18    limits of Marion.

19          Q     Okay. All right. Thanks.

20                   And you say the proposed bike path  
21    is -- multiuse path starts just to the west of the  
22    proposed new portion of the frontage road?

1           A     Correct.

2           Q     And why does it start at that point?

3           A     Right now there is not an extension of

4 another facility.  There's no bike facility or

5 sidewalk to tie into, so it's being stubbed at the

6 limits of the improvement to be maybe extended

7 through.

8           Q     Okay.  And then it goes all the way to

9 Skyline?

10          A     It goes -- just, again, the same reason.

11 It's stopping just to the east of Skyline.  It's

12 being stubbed at this last property east of the

13 Skyline intersection.  Again, there's no facility to

14 tie into right now.  So there will be a possible

15 connection in the future.  But it's being provided

16 for the rest of the length of the frontage road and

17 then just stopped at each end.

18          Q     How would a person get on the bike path?

19          A     Well, from the development that's going

20 to -- you know, planned to occur would be the primary

21 use for that.  They would come out of any of these

22 parcels.  And then there's a connection on Marathon.



1     There is a bike path that runs up to the existing  
2     development that's surrounding the mall area.  So  
3     we're proposing a multiuse path along Marathon that  
4     goes underneath that bridge.

5           Q     So there's a bike path alongside Marathon  
6     presently?

7           A     No.

8           Q     Okay.

9           A     There isn't.  It's tying into, I guess, the  
10    existing development and, I guess, streets and  
11    whatever sidewalk they currently have in front of the  
12    out lots here.

13          Q     There is no bike path.  You're going to put  
14    a bike path -- or your proposal is the bike path  
15    that's just short of each side of the new frontage  
16    road portion and also along the new portion of  
17    Marathon Road going north and the old portion of  
18    Marathon Road going north; is that correct?

19          A     Yes, for a portion of it, correct, through  
20    the limits of the improvement.  We're stopping the  
21    improvements not all the way up to the mall but just  
22    north of 13, and so the bike path will go to the

1 limits of the proposed improvement.

2 Q So there's some proposed improvement on the  
3 north side of Marathon -- excuse me. On existing  
4 Marathon Road, there's some improvements about  
5 halfway up between 13 and the mall area; is that  
6 correct?

7 A That's correct.

8 Q Okay. And so the bike path will extend to  
9 the extent of that improvement, correct?

10 A Right. It will extend to the limits of  
11 that, yes.

12 Q And you're not sure where it connects up  
13 with any other bike or multiuse path?

14 A There is no other bike facility up there.  
15 I think there's some sidewalks in front of that  
16 existing development. But there's no other bicycle  
17 facility that it would connect to right now.

18 Q And when you refer to the development down  
19 south of 13 around the area of the frontage road and  
20 the proposed area of the bike path, is that expected  
21 to be commercial or residential?

22 A I think it's expected to be a mixture based

1 on the land use plan. I think there was a couple of  
2 restaurants and some -- maybe a light retail strip  
3 mall and then maybe some office space. There was a  
4 mixture of different developments that were, I think,  
5 considered or proposed for this area.

6 Q So essentially the bike path is planning  
7 for a future development?

8 A Yes.

9 Q And I believe you stated that there was not  
10 signals planned for the bike path at the crossing?

11 A We anticipate -- the crossing is proposed  
12 to only be 2 feet off of the back of the curb for the  
13 roadway, so we're anticipating that the signals for  
14 the lights or the gates or whatever is installed for  
15 the roadway would also cover the bike path itself.

16 Q Okay. So that's the plan?

17 A I mean, there's not been a design, you  
18 know, proposed for this yet, but that would be what  
19 would be anticipated. There will be some protection  
20 for that path, and the crossing would extend  
21 obviously beyond the path.

22 Q And you say the bike path is only 2 feet

1 off of the road?

2 A Off the back of the curb, and then it's  
3 10-foot wide. So it extends 12-foot beyond the curb.

4 Q And what's the surface of that bike path?

5 A It's proposed right now to be a concrete  
6 surface.

7 Q And there's no agreement on the maintenance  
8 of the bike path yet or proposal?

9 A I think there's a maintenance agreement  
10 being worked out with the City of Marion at the  
11 completion of construction that they will take over.  
12 This is a local road, local facility.

13 Q The frontage road --

14 A Both the frontage road and the --

15 Q Excuse me. I'm sorry. The crossing. I  
16 guess I'm just concerned about the crossing. Pardon  
17 me.

18 A The at-grade crossing?

19 Q The at-grade crossing, correct.

20 A I'm not sure what the maintenance agreement  
21 is currently, your Honor, on that.

22 MS. CAMARENA: Greg, would you know? Would you

1 know that answer?

2 JUDGE DUGGAN: I'm sorry?

3 MS. CAMARENA: Greg, would you know?

4 MR. MCLAUGHLIN: Yes.

5 JUDGE DUGGAN: We'll bear that in mind but

6 appreciate that. Thank you.

7 Okay. I'm done. We can go back

8 around, or I'd like to address the exhibits, too.

9 But you want to ask questions? Back to you,

10 Ms. Camarena.

11 MS. CAMARENA: Yes, just a couple.

12 REDIRECT EXAMINATION

13 BY

14 MS. CAMARENA:

15 Q In regards to -- do you know offhand if

16 there's currently any safe way for pedestrians or

17 cyclists to cross Illinois 13?

18 A I don't think there is any designated

19 facility for them to cross 13 right now.

20 Q So would this frontage road and that

21 Marathon Drive extension provide a way for them to

22 cross?

1           A     Yes.

2           Q     Is there currently traffic signals, did you  
3 say earlier, on Illinois 13 both at the BNSF crossing  
4 and Marathon Drive intersection?

5           A     Yes. There's traffic signals at the  
6 Marathon Drive intersection and then the warning  
7 devices at the at-grade railroad crossing.

8           Q     And would this frontage road and Marathon  
9 Drive extension reduce some of that congestion on  
10 Illinois 13?

11          A     Yes.

12          Q     And would this frontage road also provide  
13 any access to the local traffic going on both sides  
14 of Illinois 13?

15          A     Yes. It provides better connectivity  
16 between the future development and the existing mall  
17 development.

18          Q     Would they still have a traffic signal, or  
19 would that be eliminated?

20          A     The traffic signal at Marathon would be  
21 eliminated, and of course the warning devices at the  
22 grade separation could be eliminated.

1           Q     All right.  And I know you mentioned that  
2     when the studies were done, it took into  
3     consideration economic development that's proposed  
4     and land future usage.

5                     Are you aware of anything that has  
6     been proposed regarding -- with the STAR bond  
7     development and the studies for future use?

8           A     Yes.  We took that into consideration as  
9     well.  The proposed STAR bond development northeast  
10    of the Interstate 57 and Illinois 13 interchange was  
11    also considered when looking at the overall traffic  
12    for the corridor in this area.

13          Q     And during your studies, the safety for the  
14    railroad as well as the safety for the traveling  
15    public was taken into consideration, correct?

16          A     That's correct.

17          Q     And all of this was also done with  
18    communications and considerations of what the City of  
19    Marion also wanted?

20          A     Yes.

21          Q     And the City of Marion is completely in  
22    favor of both the frontage road as well as the grade

1 separation?

2 A In our coordination meetings, they have  
3 indicated support for, yes, the current proposed  
4 improvements that we've shown on these exhibits.

5 MS. CAMARENA: Let's see. Let me just look  
6 here.

7 I think that's all for now. I think  
8 everything else has been addressed.

9 JUDGE DUGGAN: Mr. Prendergast.

10 MR. PRENDERGAST: Yes. I just have a couple of  
11 questions.

12 RECROSS-EXAMINATION

13 BY

14 MR. PRENDERGAST:

15 Q What's the relationship between Crawford  
16 and IDOT?

17 A We are a consulting firm that has been  
18 selected by the Department to provide engineering  
19 services for this project.

20 Q Okay. And is IDOT a major client of  
21 Crawford?

22 A Yes, they are.



1           Q     Okay.  You had referenced something about a  
2     land use plan.  Is that the City of Marion's?

3           A     Yes.  We have coordinated with the City of  
4     Marion in some of their past studies that they had  
5     conducted and looked at the, you know, proposed land  
6     use for this area and then for the STAR bond area as  
7     well.

8           Q     Is this a written document, the City of  
9     Marion's land use plan?

10          A     They had a comprehensive traffic study that  
11     had an exhibit in that that was their land use plan  
12     in addition to, you know, just through our  
13     coordination meetings and some of their coordination  
14     with the local developers, what they were going to be  
15     proposing for that area.

16          Q     And do you have a copy of that?

17          A     I don't have that here today.  But we do  
18     have that in our possession, their comprehensive  
19     traffic study and their land use plan exhibits from  
20     that.

21          Q     And if I made a request to IDOT and they  
22     were amenable to producing that, would you be willing

1 to give that to IDOT?

2 A Sure, yes.

3 Q Do you know if they have it now, the land  
4 use plan?

5 A We have been, you know, sharing some of  
6 these past studies. It came initially from IDOT to  
7 us, so we probably have it in our possession right  
8 now. But they definitely are aware of it. And we  
9 can provide them a copy back to forward to you.

10 Q Okay. Now, there's a couple other  
11 questions I had, and then I'll be done. I promise.

12 What's the proposed distance between  
13 the proposed at-grade crossing for the frontage road  
14 and the extension of Marathon to the frontage road.  
15 Do you understand what I mean?

16 A Yes. From the center of the existing track  
17 to the proposed center line of Marathon Drive along  
18 the center line of the frontage road, it is  
19 approximately 257 feet.

20 Q Okay. Thank you.

21 With regard to the overpass, it's my  
22 understanding that the overpass is going to be three

1       lanes in each direction; is that true?

2           A       That's correct.

3           Q       And, lastly, is there any plans or has  
4       there been discussions about using the frontage road  
5       as a diversionary road during the construction of the  
6       overpass for Route 13?

7           A       Well, there's been discussion in our  
8       staging that we are going to have to coordinate the  
9       timing and the use of the existing at-grade facility  
10      while we're staging traffic and during the  
11      contractors' operations and then also the, you know,  
12      proposed at-grade crossing on the frontage road to  
13      see whether that could be used during construction or  
14      if it has to remain closed until the completion of  
15      the project. So that still needs to be coordinated  
16      with the final traffic control plan and the  
17      maintenance of traffic during construction.

18          Q       The traffic control plan is still in the  
19      works it sounds like?

20          A       I think that will need to be coordinated  
21      with the Railroad and with the Department based on  
22      the staging that's proposed for construction.

1           Q     If the frontage road was not used, how  
2     would the use of the roadway be for Route 13 in the  
3     construction phase of the overpass?

4           A     If the frontage road at-grade crossing is  
5     not used by the contractor during construction?

6           Q     Or the motoring traffic on Route 13.  
7     That's what I'm trying to understand.

8                     Let me ask you this: In the course of  
9     the construction of the overpass, are they going to  
10    keep lanes of Route 13 open, or is there a plan to  
11    use the frontage road crossing as a diversion?

12          A     I see what you're saying now. Yeah.

13                    The proposed plan in the first stage  
14    is to maintain four lanes of traffic, two in each  
15    direction, on Route 13 on the at-grade crossing on  
16    the westbound side. So there will have to be some  
17    interim improvements made to that crossing to  
18    accommodate the four lanes of traffic at-grade on  
19    Route 13 while construction is being done.

20                    Traffic is not proposed to be put on  
21    the frontage road during the construction of the  
22    Route 13 grade separation, in other words. And then

1     when the Stage 1 or what we're calling the eastbound  
2     grade separation structure is built, traffic will be  
3     moved up to that grade separation structure and  
4     traffic will no longer be at-grade crossing the  
5     Route 13 tracks. However, there may need to be some  
6     coordination obviously with the contractor and his  
7     operations during that Stage 2 time.

8           Q     Will the Route 13 traffic in the second  
9     stage use the overpass or share the overpass?

10          A     That's what's proposed right now. The  
11     two-way traffic will use the overpass in the second  
12     stage while the second bridge is being built.

13          MR. PRENDERGAST: Thank you. That's all I  
14     have.

15          JUDGE DUGGAN: Mr. Saladino.

16          MR. SALADINO: Yeah. Thank you, your Honor. I  
17     just have a couple questions.

18                         RECROSS-EXAMINATION

19                         BY

20                         MR. SALADINO:

21          Q     Does the contract contain language for the  
22     contractor to procure railroad liability insurance

1 before they begin work on the railroad's  
2 right-of-way?

3 A That's a standard condition with the  
4 Department's State letting, so we'll have the  
5 standard specification for the Railroad's liability  
6 in the contract since it's on the State letting.

7 Q And do you know if a railroad flagger will  
8 be required for the contractor at all times that they  
9 are within the railroad's right-of-way on this  
10 project, the frontage road project?

11 A I would anticipate that they will be  
12 required, yes.

13 MR. SALADINO: I have no further questions,  
14 your Honor.

15 JUDGE DUGGAN: Okay. Let's go off the record a  
16 second here.

17 (Whereupon, a discussion was had  
18 off the record.)

19 JUDGE DUGGAN: Let's go back on the record and  
20 have Mr. Hansen ID Exhibits 1A and B.

21

22

1                                   FURTHER REDIRECT EXAMINATION

2                                   BY

3                                   MS. CAMARENA:

4               Q     Stan, can you please identify what has been  
5 marked as our Exhibit No. 1?

6               A     Yes. There's two sheets that make up  
7 Exhibit 1 in the petition which are the preliminary  
8 type, size and elevation drawing for the proposed  
9 grade separation structure that shows the design  
10 intent and the construction staging proposed to  
11 construct the new grade separation.

12              Q     And, for the record, these have been  
13 provided to BNSF for their review as well, correct?

14              A     That is my understanding, yes.

15              Q     And then can you please identify what has  
16 been marked as Exhibit 2?

17              A     This is the proposed agreement between the  
18 State of Illinois, Department of Transportation, and  
19 the BNSF Railway.

20              Q     And this as well has been submitted to BNSF  
21 for their review and signature?

22              A     That's my understanding as well.

1 MS. CAMARENA: Your Honor, at this time we'd  
2 like to have Exhibit 1 and 2 be introduced into  
3 evidence.

4 EXAMINATION

5 BY

6 JUDGE DUGGAN:

7 Q Okay. Exhibits 1A and B, if this project  
8 is authorized by the Commission, is the project going  
9 to be constructed in substantial compliance with  
10 Petitioner's Exhibits 1A and B?

11 A Yes, it will, your Honor.

12 Q And we note that that's what's attached to  
13 the petition. And we also note that Exhibit 2 is not  
14 a signed document, correct?

15 A That's correct.

16 JUDGE DUGGAN: Okay. All right. Then if we  
17 want to let Mr. Hansen go and we'll introduce these  
18 exhibits?

19 MR. PRENDERGAST: Could I ask him a quick  
20 question?

21 JUDGE DUGGAN: Oh, I'm sorry. Pardon me. Go  
22 ahead.



1           MR. PRENDERGAST: Thank you.

2                           FURTHER RECROSS-EXAMINATION

3                           BY

4           MR. PRENDERGAST:

5           Q     Mr. Hansen, with regard to Exhibit 2,

6     that's a document you understand to be drafted by

7     IDOT; is that correct?

8           A     That's correct.

9           Q     Okay. It's pretty much a standard form

10    IDOT bridge agreement; is that correct?

11          A     That, I'm not familiar with to be honest.

12          Q     But you understood it was drafted by IDOT

13    exclusively?

14          A     I know it was prepared by the Department.

15          Q     Okay. You're not aware of BNSF having any

16    input into the drafting of the agreement?

17          A     I am not aware of that.

18          MR. PRENDERGAST: That's all I have.

19          MS. CAMARENA: One more.

20

21

22

1                               FURTHER REDIRECT EXAMINATION

2                               BY

3                               MS. CAMARENA:

4               Q     Stan, but you are aware that this draft

5     agreement has been submitted for review and comments

6     to BNSF which was for their review, correct?

7               A     Yes.

8               MS. CAMARENA:   Okay.   That's it.

9               MR. PRENDERGAST:   I have nothing further.

10              JUDGE DUGGAN:   Okay.   All right.   Then you want

11     to offer Petitioner's 1A and B into evidence,

12     Ms. Camarena?

13              MS. CAMARENA:   Yes, I do, your Honor.

14              JUDGE DUGGAN:   Okay.   And I'll go ahead and do

15     them and ask you if there's any objections after I go

16     through all of them then.

17                               So let's just say Petitioner's 1A and

18     B is the specifications or engineering drawings for

19     the plan, Exhibit 2 being the unsigned agreement,

20     Exhibit 3 being the IDOT letter of April 13,

21     Exhibit 4 being the BNSF letter of May 10 and

22     Exhibit 5 being the aerial view with the superimposed

1       indications of the plans that were discussed.

2                       Do you have any objections -- are you  
3       offering all of those into evidence, Ms. Camarena?

4               MS. CAMARENA:   Yes, I am.

5               JUDGE DUGGAN:   Mr. Prendergast, do you have any  
6       objections to any of those being admitted as  
7       exhibits?

8               MR. PRENDERGAST:   Yes.   I object to Exhibit 2.  
9       It's an unsigned agreement.   We're here to assess  
10      whether or not a bridge should be constructed.  
11      Whether there's an agreement or not in effect really  
12      has no relevancy.   These orders are entered all the  
13      time in the absence of agreements and the agreements  
14      are entered into down the road.   I just don't see  
15      that it has any relevancy to the issues currently  
16      before you.

17                       And with regard to the other exhibits,  
18      we don't have any objection.

19               JUDGE DUGGAN:   Okay.   Mr. Saladino, do you have  
20      any objection?

21               MR. SALADINO:   I have no objections to the  
22      exhibits, your Honor.

1 JUDGE DUGGAN: Well, we'll admit Exhibits 1, 3,  
2 4 and 5.

3 (Whereupon, Petitioner's Exhibit  
4 Nos. 1, 3, 4 and 5 were  
5 admitted into evidence.)

6 JUDGE DUGGAN: Ms. Camarena, do you want to  
7 argue why Exhibit 2 is relevant?

8 MS. CAMARENA: Your Honor, that was put as part  
9 of our petition to show the efforts that IDOT has  
10 attempted to reach out to BNSF and try to come to an  
11 agreement in regards to the Illinois 13 project. And  
12 it is not out of the ordinary that these types of  
13 exhibits are put into petitions for demonstrative  
14 reasons to know what attempts have been made, and  
15 that is really what this exhibit's purpose is for.

16 JUDGE DUGGAN: Okay. Well, we'll admit it for  
17 the sole purpose of showing that IDOT has at least  
18 discussed and attempted to reach some agreement on  
19 some terms with BNSF.

20 MS. CAMARENA: That's correct.

21 JUDGE DUGGAN: It will not in any way reflect  
22 BNSF had anything to do with drafting it or approves

1 of it in any fashion whatsoever. And it will be  
2 limited expressly for that purpose and nothing about  
3 the context of it will otherwise be considered.

4 Is that -- well, anyway, that's the  
5 ruling. Okay?

6 MS. CAMARENA: Thank you.

7 (Whereupon, Petitioner's Exhibit  
8 No. 2 was admitted into  
9 evidence.)

10 JUDGE DUGGAN: Yeah. Okay. So Mr. Hansen  
11 still wants to leave, I think.

12 Okay. Well, are you ready to call  
13 your next witness then?

14 MS. CAMARENA: I think for now we're done with  
15 Stan. And I think there really isn't -- until I  
16 think we hear testimony from BNSF may we need to call  
17 Carrie or Greg to the stand. But right now, we rest.

18 JUDGE DUGGAN: Okay. You want to proceed  
19 today, Mr. Prendergast?

20 MR. PRENDERGAST: I prefer not to, but I will.  
21 I have a plane to catch, too, but I'm willing to put  
22 on Mr. Thompson. I don't know where the other

1 individuals -- if they've traveled a distance or if  
2 they're in Springfield. I guess that's a  
3 consideration as well.

4 JUDGE DUGGAN: Okay. Let's go off the record.

5 (Whereupon, a discussion was had  
6 off the record.)

7 JUDGE DUGGAN: Back on the record.

8 FRENCH THOMPSON,  
9 called as a witness herein, having been first duly  
10 sworn, was examined and testified as follows:

11 DIRECT EXAMINATION

12 BY

13 MR. PRENDERGAST:

14 Q Could you state your name for the record  
15 and spell your last name, please.

16 A Name is French Thompson, T-h-o-m-p-s-o-n.

17 Q And are you a civil engineer?

18 A Yes.

19 Q And where did you obtain your degree from?

20 A The University of Michigan, Ann Arbor.

21 Q Is that a bachelor of science degree?

22 A Bachelor of science in civil engineering.

1           Q     Upon graduation, did you go to work for the  
2 BNSF?

3           A     Yes.

4           Q     And could you give us a summary of your  
5 background and experience from when you first started  
6 with BNSF through today's date.

7           A     When I first started with BNSF, I came into  
8 the company as a project engineer in which I managed  
9 capital expansion projects constructing bridges,  
10 roads, railroad structures and facilities.

11                   I then proceeded on to being a  
12 roadmaster in Oklahoma City, Oklahoma, which I  
13 managed the maintenance of track structures from  
14 Oklahoma City down to the Texas state border.

15                   I then returned to the Chicagoland  
16 area as a project engineer working on the maintenance  
17 of intermodal facilities, sidings, and railroad  
18 structures including bridges.

19                   And then I am in my current job as a  
20 manager of public projects for the states of  
21 Illinois, Iowa and Wisconsin in which I manage  
22 relationships between road authorities from the local

1 level to the state level on issues of grade crossing  
2 safety, crossing closures, overpasses, underpasses  
3 and any other interaction between the state and/or  
4 local road authorities and BNSF.

5 Q And when did you first start to work for  
6 the BNSF?

7 A June of 2006.

8 Q Now, considering all your positions with  
9 the BNSF, have you had experience dealing with bridge  
10 designs?

11 A Yes, I have.

12 Q And have you been involved in many bridge  
13 projects including the assessment of design plans for  
14 bridges?

15 A Yes.

16 Q And have you also been involved in the  
17 evaluation of public grade crossings?

18 A Yes.

19 Q And have you done on-site evaluations of  
20 grade crossings with some members of the ICC staff?

21 A Yes.

22 Q Do the ICC and BNSF have incentives to



1 close crossings?

2 A Yes.

3 Q And have you been involved in projects  
4 where crossing closures have been part of a crossing  
5 improvement or a bridge project?

6 A Yes.

7 Q And typically when an overpass is  
8 developed, has it been your experience that that can  
9 result in closing of nearby crossings as opposed to  
10 opening of crossings?

11 A Yes.

12 Q Now, are you familiar with the proposed  
13 project that's the subject of the petition?

14 A Yes, I am.

15 Q And you reviewed the bridge plans?

16 A Yes. And I have forwarded the more  
17 thorough review to the structures team of BNSF in  
18 Kansas City.

19 Q And is part of the evaluation the vertical  
20 and horizontal clearances?

21 A Yes.

22 Q And BNSF has no objections to that?

1           A     No objections.

2           Q     Have you ever been to the area where this  
3 project is located?

4           A     Yes.

5           Q     And when have you been there?

6           A     Approximately two weeks ago.

7           Q     What was your purpose for going to the  
8 area?

9           A     In preparation of the hearing and  
10 evaluation of the proposed structure and 30 miles  
11 north and south of the track.

12          Q     And what was the purpose of covering such a  
13 large territory?

14          A     To look at potential closures and other  
15 proposed or potential improvements in and around this  
16 location and other opportunities in which we could  
17 increase safety on the BNSF.

18          Q     Did you also do an evaluation of the area  
19 including the roadways and the composition of the  
20 area around Route 13 and the BNSF tracks?

21          A     Yes, I did.

22          Q     And did you drive up Skyline Drive and

1 around the mall and throughout the area there?

2 A Yes, I did.

3 Q And along with your experience and  
4 background, did the site visit form a basis for any  
5 conclusions or opinions that you may have?

6 A Yes.

7 Q Now, has BNSF been up front with IDOT that  
8 they're in opposition to the opening of a new  
9 crossing in conjunction with the bridge project?

10 A Yes. Prior to me being on site, there was  
11 communication back in 2006 with three predecessors  
12 before me. One was Mark Leeman (phonetic) between  
13 the State and BNSF in which Mark expressed his  
14 disapproval of the at-grade crossing.

15 There was communication in 2007  
16 between Craig Rasmussen and IDOT. And his position  
17 was the same, in support of the overpass but not in  
18 support of the frontage road.

19 And then my most immediate  
20 predecessor, Chad Scherwinski, in 2010 there was  
21 communication between the State and Chad over the  
22 overpass and BNSF's opposition to the frontage road

1 as well.

2 Q Okay. And is BNSF's position that the  
3 at-grade crossing for the frontage road is  
4 unnecessary and would not enhance public safety?

5 A Yes.

6 Q And although I'm sure BNSF would prefer  
7 there were no crossings, but is there a preference  
8 for traffic going over the railroad as opposed to  
9 crossing at-grade?

10 A Yes. BNSF -- as you have stated, BNSF  
11 prefers having no crossings at all; but in cases  
12 where there must be a crossing, BNSF prefers to have  
13 a grade separated crossing.

14 Q Now, the new crossing that's proposed for  
15 the frontage road area, what is BNSF's position as to  
16 the proximity of that to a six-lane overpass  
17 structure?

18 A BNSF feels that it is a redundant crossing,  
19 that the utilization of the frontage road or the  
20 access needed could be accessed through the overpass  
21 that is built or alternate current at-grade crossings  
22 that are within the limits of this township.

1           Q     And do you believe that the presence of the  
2     at-grade crossing would encourage people south of  
3     Route 13 to cross at-grade rather than go over the  
4     bridge?

5           A     Yes.   In my on-site visit, I saw and  
6     observed people who would actually ride through the  
7     mall parking lot or the other access roads to avoid  
8     some of the lights at Route 13.   And in my opinion,  
9     this access road or this frontage road could serve as  
10    an alternate route to go over Illinois 13.

11          Q     And do you have an opinion to a reasonable  
12    degree of civil engineering certainty as to whether  
13    the safety enhancement presented by construction of  
14    the bridge would be negated by the new proposed  
15    crossing?

16          A     Yes.

17          Q     And what's your opinion?

18          A     My opinion is that even though a portion of  
19    the traffic would be diverted to the overpass, that  
20    with the proposed use of the frontage road, that more  
21    traffic would utilize that frontage road than has  
22    been noted in the proposed plan.   And that eventually

1 with the proposed zoning and land use, that traffic  
2 counts could reach a certain amount whereas in the  
3 next 20 to 30 years, an overpass could be discussed  
4 at the frontage road as well due to the traffic and  
5 train conflicts.

6 Q With regard to the design of the roadway,  
7 do you have any views as to whether there's any  
8 potential safety concerns with the proximity of the  
9 proposed crossing to the proposed extension of  
10 Marathon Drive?

11 A Yes. In our view -- and also this has been  
12 communicated from a prior manager of public  
13 projects -- BNSF feels that there could be a queuing  
14 concern for traffic traveling east along the proposed  
15 frontage road that may want to turn north on Marathon  
16 Drive, that the queue could back up onto BNSF tracks  
17 as vehicles plan to cross north onto Marathon Drive.  
18 And also there could be queuing concerns if there are  
19 pedestrians there as well especially since there are  
20 no proposed traffic signals to regulate traffic in  
21 and out of -- or north and south on Marathon or east  
22 or west on the proposed frontage road.

1           Q     And shopping times over the holidays or if  
2     the area grows economically as the City of Marion  
3     hopes, would you expect that that's a serious  
4     concern?

5           A     Yes. Even in non-holiday times with the  
6     proposed improvements or proposed economic  
7     development that the City of Marion has put in their  
8     petition as far as having multiple restaurants and  
9     shopping centers, queuing and traffic concerns could  
10    arise in which there could be the same type of  
11    conflicts that are on Illinois 13 as far as potential  
12    rear-ends or multiple areas of slow down or stoppage  
13    or yielding within a close proximity.

14                     And actually the distance between the  
15    proposed at-grade crossing of the frontage road and  
16    the proposed southern extension of Marathon is  
17    actually closer in proximity than the existing  
18    at-grade crossing of Illinois 13 and Marathon which  
19    would cause even more concern of potential train/car  
20    conflicts and queuing concerns backing up from  
21    Marathon.

22           Q     Is there any other grade crossing which

1 feeds the mall or can provide access to the mall  
2 north of Route 13?

3 A Yes. There are two crossings actually.  
4 Skyline Drive crosses at-grade and a newly relocated  
5 and constructed crossing, Redco Drive, also crosses  
6 north of Illinois 13 and could access the mall to get  
7 to the eastern side of the tracks to access any type  
8 of retail.

9 Q You heard the estimates as to the distance  
10 from Route 13 to the Skyline Road grade crossing.

11 Did that sound fairly accurate to you?

12 A Yes, it's fairly accurate. It's  
13 approximately three-tenths of a mile between the  
14 Illinois 13 crossing and the Skyline Drive crossing.

15 Q Okay. Is there any concern raised by the  
16 future economic development in the area that that  
17 will increase not only the motorist traffic but the  
18 bicyclist and pedestrian traffic going over the  
19 proposed grade crossing?

20 A Yes, there is concern.

21 Q Now, I'm going to show you what's been  
22 previously marked as Respondent's Exhibit No. 6.



1                   Are you familiar with that document?

2           A     Yes.  This document is a track chart  
3     indicating the position of BNSF tracks and also  
4     crossings, overpasses and underpasses.

5           Q     And is Exhibit No. 6 a true and accurate  
6     copy of the track chart that includes the area  
7     involved in the petition?

8           A     Yes.

9           Q     Okay.  And is this a record that's made and  
10    maintained in the ordinary course of BNSF's business?

11          A     Yes.

12          Q     All right.  In looking at Page 2, there's  
13    two highlighted areas.

14                    Could you tell us what's at  
15    Milepost 178.9, the top highlighted area?

16          A     The top highlighted area is the current  
17    at-grade crossing of Illinois State Route 13.

18          Q     Okay.  And the highlighted area right below  
19    that at Milepost 178.57?

20          A     That is the current at-grade crossing of  
21    Skyline Drive.

22          Q     Does this truly and accurately show the

1 distances between the various crossings in the area?

2 A Yes.

3 Q Okay. And is the Redco crossing listed

4 beyond that?

5 A Yes, it is.

6 MR. PRENDERGAST: Okay.

7 JUDGE DUGGAN: Would you show me where that's

8 at?

9 MR. PRENDERGAST: The Redco?

10 BY MR. PRENDERGAST:

11 Q Is the Redco crossing Milepost 177.87?

12 A Yes, it is.

13 Q Okay. And it's the first crossing below

14 the Skyline Drive crossing on Page 2 of Exhibit 6?

15 A Yes, going towards -- if you're going in

16 the direction of Bushnell, Illinois, that is the next

17 crossing.

18 Q That would be going in a north direction?

19 A That is going in a north direction.

20 Q Okay. In your view, would the true

21 enhancement to safety be not opening a new

22 crossing --

1           A     Yes.

2           Q     -- at all at the frontage road?

3           A     At the frontage road, yes.

4           Q     Okay. Have you looked at other potential

5 designs that would consider the needs of traffic

6 south of Route 13 but would not require opening an

7 at-grade crossing at the frontage road?

8           A     Yes. I prepared some rough schematics

9 indicating what I thought could be some alternate

10 routes.

11          Q     Okay. First of all, taking a look at

12 Respondent's Exhibit No. 2, do you see that?

13          A     Yes.

14          Q     Okay. And is that an aerial view of

15 Route 13 intersecting near Marathon Drive?

16          A     Yes.

17          Q     And have you added markings to the aerial

18 photograph?

19          A     Yes. I have indicated a few rough

20 locations of where the proposed grade separation is

21 and then also some arrows directing in which

22 direction traffic could proceed.

1           Q     Okay.  Could you explain Respondent's  
2     Exhibit No. 2 which is offered for demonstrative  
3     purposes for your testimony?

4           A     The exhibit shows on the bottom  
5     right-hand -- or bottom left-hand side of the drawing  
6     a box, a rectangular shape, with the words Proposed  
7     Overpass.  Moving to the right on the bottom half,  
8     there is an arrow with the words Omnidirectional  
9     Traffic to Next Light.  And on the top of there,  
10    there is an orange dotted line indicating a traffic  
11    barrier which would prevent traffic from Marathon  
12    trying to access going east on Illinois 13.

13                     And there are two arrows, one that's  
14    indicated by Right Turn Out, meaning that traffic  
15    coming south on Marathon could access the proposed  
16    overpass, and a Right Turn In arrow indicating that  
17    traffic going west on Illinois 13 would be able to  
18    turn north onto Marathon still accessing the retail  
19    center and preserving that access.  And access on the  
20    southern side or the eastern direction of traffic  
21    would be able to access the current retail center by  
22    going to the next crossing.

1           Q     Is that Sinclair Road?

2           A     That is Sinclair Road.

3           Q     Okay. And could also be accessed off of

4     Walton Way as well?

5           A     Which could also be accessed off of Walton

6     Way which is indicated on the south and on the

7     north -- I think it is referred to as Williamson

8     County Parkway.

9           JUDGE DUGGAN: Let me tell you, you're losing

10    me with roads that I don't see.

11          MS. CAMARENA: Right.

12          JUDGE DUGGAN: I don't see Sinclair. I don't

13    see Walton.

14          MR. PRENDERGAST: Okay.

15          JUDGE DUGGAN: I see some of them on 3.

16          MR. PRENDERGAST: Right. I'll show you that.

17    BY MR. PRENDERGAST:

18          Q     Could you take a look at Respondent's

19    Exhibit No. 3.

20                         Does that truly and accurately show

21    the layout of the roadways near the intersection of

22    Route 13 and the BNSF tracks?

1           A     As downloaded off of Google maps, yes, this  
2     is a true and accurate representation of the roads.

3           Q     Okay. And was this consistent with what  
4     you observed when you were in the area a couple weeks  
5     ago?

6           A     Yes.

7           Q     Okay. Now, the area that is shown, the  
8     intersection that's shown in the middle of  
9     Respondent's Exhibit No. 2 is the intersection --  
10    it's the first roadway west of the tracks on  
11    Respondent's Exhibit No. 3 -- or east --

12          A     It is the first roadway east of the tracks  
13    on Respondent's Exhibit No. 3.

14          Q     Okay. And although it's not marked, that's  
15    Marathon Drive?

16          A     Yes.

17          Q     Okay. And then Sinclair would be the next  
18    street to the east?

19          A     Yes.

20          Q     Okay. And then Walton Way would be the  
21    next street to the east after Sinclair?

22          A     Yes.

1           Q     So when you were describing having the  
2     eastbound traffic proceed past Marathon Road and turn  
3     toward the mall either on Sinclair or Walton Way,  
4     those would be the locations that are shown on  
5     Exhibit 3?

6           A     Correct.

7           Q     Okay. Under your proposal, would the  
8     bridge have -- it wouldn't extend as far along  
9     Route 13?

10          A     Yes. It would not extend as far, and it  
11     would require a less massive bridge structure.

12          Q     Under this proposal, though, there would be  
13     no frontage road considered; is that correct?

14          A     Correct.

15          Q     Okay. Now, have you also -- strike that.

16                     Do you believe that the scenario or  
17     the alternative design that you suggest in  
18     Respondent's Exhibit No. 2 would enhance the safety  
19     of traffic in the area?

20          A     Yes.

21          Q     Okay. And more so than opening another  
22     crossing within 500 feet of the frontage road

1 proposed crossing?

2 A Yes.

3 Q Now, with regard to a second alternative  
4 scenario, I'll ask you to take a look at Respondent's  
5 Exhibit No. 3. And could you explain the scenario  
6 that's offered as an option to service the people  
7 from the frontage road area to the mall and not  
8 require the construction of a crossing at the  
9 intersection of the proposed frontage road and BNSF  
10 tracks?

11 A Yes. This second proposed alignment took  
12 into account the potential need for access to any  
13 proposed development south of Illinois 13. And this  
14 frontage road could come off of Walton Way and still  
15 connect to Marathon Drive which is to the north and  
16 not have to cross BNSF right-of-way but still provide  
17 access to the proposed development in that area.

18 Q Okay. And it would still encourage  
19 development in the area where the frontage road is  
20 located?

21 A Yes. The access to those larger parcels,  
22 potential parcels, would still be served by the



1 proposed frontage road design.

2 Q Okay. And it would still allow access from  
3 the businesses south -- proposed businesses south of  
4 Route 13 to the mall area north of Route 13?

5 A Correct.

6 Q And do you feel these alternative  
7 recommendations would be a greater enhancement of  
8 public safety?

9 A Yes, it would, especially without the need  
10 for pedestrians or nonvehicular traffic crossing  
11 Route -- crossing the BNSF tracks nor additional  
12 vehicular crossings crossing the tracks at an  
13 at-grade crossing.

14 MR. PRENDERGAST: Thank you, Mr. Thompson.  
15 That's all I have.

16 Oh, wait. I have one other question,  
17 if I may.

18 BY MR. PRENDERGAST:

19 Q Does the current scenario concern you that  
20 there are no plans for any devices at the frontage  
21 road crossing or any real plans as to exactly where  
22 this bike path is going to cross with regard to the

1 crossing?

2 A Yes. Within all the communication that's  
3 started between BNSF and IDOT, there's never been any  
4 indication of any warning devices or any indication  
5 of pedestrian or -- pedestrian safety going across  
6 the BNSF tracks especially with the proposed use of a  
7 bike path. And that is a concern of BNSF.

8 Q Okay. And I'm going to show you what's  
9 been marked as Respondent's Exhibit No. 7.

10 Is that a true and accurate copy of  
11 information downloaded from IDOT's Web site?

12 A Yes.

13 Q Okay. And could you indicate what that  
14 indicates with regard to the proposed frontage road  
15 and the proposed bicycle/pedestrian path?

16 A Looking at Respondent's Exhibit No. 7, the  
17 fourth bullet reads, Supplemental frontage roads in  
18 portions of the corridor consisting of one 12-foot  
19 travel lane in each direction and an adjacent 10-foot  
20 wide bicycle/pedestrian path separated from the  
21 frontage road by an open ditch. This network will  
22 include an interchange at the existing Wolf Creek

1 Road intersection near Crainville.

2 The portion of concern to BNSF is a  
3 10-foot wide bicycle/pedestrian path separated from  
4 the frontage road by an open ditch. There's no  
5 indication of how far from the frontage road and a  
6 10-foot wide path is quite large and a concern that a  
7 separate warning device may be needed there as well  
8 if the BNSF were to agree to have an at-grade  
9 crossing.

10 Q Or if it was ordered?

11 A Or if it was ordered by the Commission.

12 MR. PRENDERGAST: Okay. That's all I have.

13 Thank you. Sorry.

14 JUDGE DUGGAN: Ms. Camarena.

15 CROSS-EXAMINATION

16 BY

17 MS. CAMARENA:

18 Q Okay. You had mentioned Redco Drive.

19 Could you in your opinion tell us how  
20 far that is from Route 13 in getting to Route 13?

21 A From the Route 13 crossing which is at  
22 Milepost 178.9 via the BNSF track chart which is

1 Respondent's Exhibit No. 6 to Redco which is at  
2 Milepost 177.87, that is approximately one mile. And  
3 that is connected via access roads. Skyline Drive  
4 goes north, and there is another road that goes to  
5 businesses to the north there.

6 JUDGE DUGGAN: Let me ask you: I still don't  
7 see Redco on a map.

8 THE WITNESS: I don't think we have -- it's on  
9 the track chart.

10 JUDGE DUGGAN: Okay. I got it. All right.  
11 Pardon me.

12 BY MS. CAMARENA:

13 Q And do you know based on your experience as  
14 an engineer, can access be given to Marathon from  
15 Route 13 if this proposed project of the grade  
16 separation took place only?

17 A If the grade separation took place only,  
18 with the current design, no. But I'm not sure if the  
19 Department has looked at alternate designs which  
20 would allow access to Marathon.

21 Q Okay. Would not the frontage road and that  
22 Marathon Drive extension provide access to the

1 businesses on both sides of Illinois Route 13 with  
2 this new project?

3 A Yes. But there is access to the businesses  
4 to the north of Route 13 by the inner drive of the  
5 retail center to the north. And as indicated in my  
6 proposed design, there could be a frontage road to  
7 the south that did not have to access -- or did not  
8 have to cross the BNSF tracks that could provide  
9 access to businesses to the south of Illinois 13.

10 Q And have you provided -- and I don't know  
11 if I have a copy -- but have you provided your  
12 proposed observations from when you were out there  
13 two weeks ago to IDOT in regards to this project?

14 A All of the proposals were intended to be  
15 presented at the hearing today.

16 Q Okay. So IDOT has not had a chance to  
17 review any of your suggestions?

18 A No.

19 Q Okay. In regards to the frontage devices  
20 and signal warnings and whatnot, I believe IDOT sent  
21 you a letter dated November 10, 2010, that included  
22 the construction and maintenance agreements and

1 provided for such devices?

2 A I do not have a copy of that letter in  
3 front of me.

4 MS. CAMARENA: Okay. Your Honor, I have a copy  
5 that is part of just my packet. I was not sure if we  
6 needed to introduce this into evidence. I don't know  
7 if I have the full, complete copy of everything that  
8 was attached to November 10th, but I can double check  
9 and if need be I'd like to go ahead and introduce  
10 that as well.

11 JUDGE DUGGAN: Okay. What is this again?

12 MS. CAMARENA: It is a letter dated  
13 November 10th sent to Mr. Thompson with three  
14 original construction and maintenance agreements for  
15 this proposed project. Also was attached the  
16 April 13th letter that was sent to Mr. Scherwinski.  
17 And we asked for him to review and sign and give us  
18 back any comments; or any questions he had concerning  
19 the project, to contact either Jim Morris or Greg  
20 McLaughlin.

21 JUDGE DUGGAN: Okay. Well, I have a full  
22 package here it looks like but then Mr. Prendergast

1 wouldn't have the benefit of reviewing that so --

2 MS. CAMARENA: You know what? Actually I do

3 have a copy here. I was able to find one that has --

4 I have two sets of it here. So I have one full,

5 complete set with the letter and everything that was

6 sent to Mr. Thompson.

7 JUDGE DUGGAN: Why don't you let

8 Mr. Prendergast look at that before you question him.

9 MS. CAMARENA: In particular if you want to

10 maybe look at Page 3.

11 MR. PRENDERGAST: There is no Page 3; it's just

12 one page.

13 THE WITNESS: There's no page numbers. It's

14 just --

15 MR. PRENDERGAST: Page 3 of what?

16 THE WITNESS: Of the agreement?

17 MS. CAMARENA: Of the agreement, yes.

18 THE WITNESS: Okay.

19 BY MS. CAMARENA:

20 Q If you can go ahead and for the record

21 state what is stated in that section.

22 MR. PRENDERGAST: What section?

1           MS. CAMARENA: Let me see. In regards to  
2 the -- let's see.

3 BY MS. CAMARENA:

4           Q Is there not the mention of the flashing  
5 devices and installation of safety gates for the  
6 frontage road?

7           A As I read where it's Subsection C, it says,  
8 Work by the company, and the company shall furnish or  
9 cause to be furnished at the expense of the State --  
10 Subsection C says, the installation of automatic  
11 flashing lights and gates with predictor circuitry  
12 for the new frontage road, but does not -- and it  
13 says the installation of pedestrian gates for the  
14 multiuse pathway, but it does not indicate where the  
15 multiuse pathway would be in relation to the frontage  
16 road nor what type of lights or gates and what type  
17 of circuitry would be installed.

18          Q But that was given -- this was sent to you  
19 in regards to asking for some feedback on what BNSF  
20 would be amenable to agreeing to in regards to  
21 addressing the issues of such signal devices and  
22 whatnot, so you were aware of it before today's



1 hearing, though?

2 A Yes. This is a preliminary agreement set  
3 forth by the State that had not been signed or  
4 undergone full legal review by the BNSF.

5 Q So IDOT never received what your objections  
6 would be to what was submitted as proposed or for  
7 your review and comments back based off this  
8 November 10th?

9 A BNSF has just finished their full legal and  
10 design review and was advised by Counsel to discuss  
11 it at the upcoming hearing.

12 Q So IDOT at this time has not had a chance  
13 obviously to review what you have come up with or  
14 suggested until today, correct?

15 A No.

16 MS. CAMARENA: So, your Honor, I would like to  
17 have on the record that in all fairness I would like  
18 to have that at least provided to our IDOT staff so  
19 that we can go ahead and review that and give our  
20 comments back in regards to that. This is the first  
21 time that this has been brought to our attention as  
22 of today.

1 JUDGE DUGGAN: Well, certainly.

2 Do you want me to order something

3 or...

4 MS. CAMARENA: No. If we can just make sure

5 that that gets sent to our district so that we can go

6 ahead and review that as soon as possible, that would

7 be greatly appreciated so...

8 MR. PRENDERGAST: I don't know what we're

9 talking about, your Honor, to be honest.

10 JUDGE DUGGAN: I was going to say -- I got a

11 little more to say than I probably want to say right

12 now.

13 So why don't we let Ms. Camarena

14 finish, and then I'll ask, and we'll figure out an

15 order of what we got.

16 MR. PRENDERGAST: Okay. Thank you.

17 MS. CAMARENA: I think that's it for now. I

18 don't have anything else, your Honor.

19 JUDGE DUGGAN: Okay. Thanks.

20 Mr. Saladino.

21 MR. SALADINO: Thank you, your Honor.

22

1 CROSS-EXAMINATION

2 BY

3 MR. SALADINO:

4 Q Mr. Thompson, do you know how many trains  
5 traverse the track at the location of the grade  
6 separation structure and presumably the proposed  
7 frontage road at this time?

8 A Train volumes do fluctuate with business,  
9 but on average we are seeing 20 trains per day.

10 Q Thank you.

11 And do you know approximately what the  
12 maximum timetable speed is?

13 A Maximum timetable speed is 49 miles per  
14 hour.

15 Q Okay. Currently do you know if the BNSF  
16 uses that portion of track either underneath where  
17 the grade separation structure is proposed or the  
18 proposed frontage road at-grade crossing, does the  
19 BNSF use any of that track for switching operations?

20 A Not to my knowledge. But I do not handle  
21 operations in that area, and I could not fully answer  
22 that question.

1           Q     Okay.  So you're unaware of whether or not  
2     there is, correct?

3           A     Correct.

4           Q     Are you aware of any interference that, if  
5     the Commission was to order the construction of the  
6     grade separation structure on Illinois 13 or the  
7     frontage road to that structure, any interference  
8     that will take place to BNSF's daily rail operations?

9           A     There would be no interference with the  
10    proposed grade separation because the grade  
11    separation spans the entire right-of-way, and they  
12    have accounted for the requested vertical clearance.  
13    I do not know if the frontage road would interfere  
14    with current or future plans.

15          Q     Okay.  Thank you.

16                   Are you aware of any potential risk  
17    that this potential grade separation structure or the  
18    proposed frontage road would cause to train crews or  
19    railroad personnel?

20          A     Could you define "risk."  I guess I don't  
21    really understand what you mean as far as risk.  
22    Safety risk or...

1           Q     Yes.  I'm specifically talking about  
2     safety.

3                     Would there be an added risk to the  
4     potential safety of railroad crews or personnel?

5           A     Added as opposed to the current at-grade  
6     crossing?

7           Q     Correct.

8           A     I can't speculate.

9           Q     Okay.

10          A     I have not discussed any -- I have not  
11     spoken with every train crew that traverses that  
12     crossing to understand if there are any safety  
13     concerns that they may have.

14          Q     Sure.  And I was just asking in your  
15     engineering judgment if you could see any potential  
16     risk factors that would be increased due to the  
17     Department seeking construction of the grade  
18     separation or the at-grade frontage road.

19                     From your engineering judgment, can  
20     you think of any potential risk that would be added  
21     if we ordered that this petition be granted?

22          A     There are always safety risks at at-grade

1 crossings and especially additional risk at  
2 pedestrian crossings.

3 Q Okay. Is BNSF in support of IDOT's  
4 petition for the grade separation structure if we  
5 leave out the frontage road part of it?

6 A BNSF completely supports the grade  
7 separation with the elimination of the frontage  
8 road -- of the at-grade crossing of the frontage  
9 road.

10 Q Okay. And one last question: You were  
11 referring to Respondent's Exhibit 3 which depicts a  
12 drawing of a proposed frontage road which I assume  
13 was done by you on this Google map; is that correct?

14 A Yes.

15 Q And you were talking about this proposed  
16 frontage road that you had drawn on this map would  
17 allow access to those parcels on the south side of  
18 Illinois Route 13 and just in the vicinity. That  
19 would be to the east of the tracks; is that correct?

20 A Yes.

21 Q Now, the parcels that would be to the west  
22 of the tracks before you get to Skyline Drive, do you

1     have a recommendation as to how those parcels would  
2     be accessed?

3             A     I think a frontage road potentially could  
4     be constructed there as well. I do not know the size  
5     of that parcel nor if there are actually any  
6     businesses that currently access or have access off  
7     of Skyline currently. They could already have access  
8     and also could have access from Illinois 13, but I do  
9     not have a zoomed-in drawing of any businesses or  
10    knowledge.

11            MR. SALADINO: Okay. Thank you very much, your  
12    Honor. That's all the questions I have.

13                           EXAMINATION

14                           BY

15                           JUDGE DUGGAN:

16            Q     So let me see if I can understand your  
17    proposal.

18                           For Exhibit 2 you've basically got a  
19    traffic barrier in there so that the eastbound  
20    traffic would not be able to turn onto Marathon Road  
21    into the mall at that point; is that right?

22            A     Correct.

1           Q     Okay.  And the point of that is so that  
2     there's no backups caused by eastbound traffic,  
3     right?

4           A     Correct.  And there would be no safety  
5     concerns of cars turning into oncoming traffic.

6           Q     Okay.  And then are you suggesting that the  
7     eastbound would then access the mall by Sinclair  
8     Drive?

9           A     Yes.  That is a current intersection with  
10    traffic lights controlling traffic in and out.

11          Q     All right.  And are you suggesting that  
12    that configuration depicted in Exhibit 2 be done in  
13    conjunction with the frontage road shown in  
14    Exhibit 3?

15          A     That could be an option.  As noted at the  
16    top, this is not to scale, not engineered, and this  
17    could be used to state opposition of or the  
18    elimination of the need of the frontage road crossing  
19    the tracks.

20          Q     But if you had a frontage road, that  
21    frontage road would require that Marathon Road remain  
22    at-grade, correct?



1           A     Well, right. And there wouldn't be  
2 necessarily a frontage road to the north because  
3 traffic could access the commercial properties to the  
4 north there.

5           Q     I didn't understand that.

6           A     I guess could you rephrase -- maybe I  
7 didn't answer the question correctly. I didn't  
8 understand your question.

9           Q     IDOT's present proposal would bring the  
10 overpass to the east of Marathon Road so that  
11 Marathon Road would then also be under Route 13,  
12 correct?

13          A     Correct.

14          Q     Okay. Your proposal in Exhibit 2 requires  
15 that Marathon Road remain at-grade with Route 13?

16          A     Right, which would eliminate the need for  
17 two bridge structures which could potentially save  
18 money.

19          Q     Right. Okay. But you don't know if, in  
20 fact, the overpass can be designed to actually serve  
21 its initial purpose of the railroad -- of going over  
22 the railroad in that fashion, correct?

1           A     I have not done the engineering, but it  
2     could potentially be designed to still allow for the  
3     clearance and still meet at-grade.

4           Q     Okay. At this point you don't know that  
5     this actually could be done, correct?

6           A     Correct. This is just a schematic with an  
7     option.

8           Q     Okay. And then my point about Exhibit 2  
9     showing Marathon Road at-grade with Exhibit 3, as  
10    opposed to being under a proposed overpass, contrasts  
11    with Exhibit 3, the frontage road -- the idea of the  
12    frontage road requires that, in fact, the overpass  
13    would go over Marathon Road, correct?

14          A     Right. Exhibit 2 and Exhibit 3 are two  
15    separate proposals.

16          Q     Right. Okay. You couldn't do both because  
17    of the -- okay.

18          A     Yeah -- so, yeah. If the concern or the  
19    desire is for an additional overpass over Marathon,  
20    you could go with Exhibit 3. If the desire was not  
21    to have an additional overpass, you could go with  
22    Exhibit 2.

1           Q     Now, I didn't understand where Redco Road  
2     fit in this whole thing at all.

3           A     Part of my review, anytime that I go out  
4     and look at proposed closures or any projects, I look  
5     at parallel crossings within two miles of the  
6     proposed crossing, and Redco was within there, within  
7     that two-mile radius.

8           Q     And what's the relevance of that to an  
9     alternative plan here?

10          A     Is that there could be alternate access for  
11     vehicles that could need to access any residential --  
12     not residential -- but commercial properties to the  
13     north.

14          Q     Primarily at the mall?

15          A     Primarily the mall or any other land use  
16     plan or development that the City of Marion has.

17          Q     Okay. And then Mr. Saladino also asked you  
18     about the land between -- south of 13 between the  
19     railroad and Skyline Drive and how you would address  
20     any landlocked parcels there. Do you recall that?

21          A     Yes.

22          Q     Okay. And I believe you stated that you

1 really haven't seen a good enough map to know how to  
2 address the issue or what issue there is; is that  
3 right?

4 A Correct, correct.

5 Q Okay. So your plan doesn't address an  
6 issue nor acknowledges that there is an issue,  
7 correct?

8 A Does not address, not necessarily does not  
9 acknowledge that there could be an issue.

10 As stated previously, BNSF has not  
11 been made available such land use plan. I'm not sure  
12 if it's publicly available. It was not -- there  
13 weren't any parcels or drawings indicated on the  
14 Internet on the Illinois Department of Transportation  
15 site concerning the Illinois 13 overpass that  
16 indicated any proposed properties that would need  
17 access or proposed commercial properties south of  
18 Illinois 13 west of the BNSF railroad tracks so...

19 Q Okay. Well, I heard you say that you  
20 weren't provided with, I guess, the future economic  
21 development plans. Is that what you said?

22 A Uh-huh.

1           Q     Okay.  And would you like to see them?

2           A     Sure, that would be very interesting to  
3     have as information.

4           Q     Does IDOT have them?  Can IDOT provide  
5     them?

6           A     I do not know who possesses those plans.

7           JUDGE DUGGAN:  I was asking Ms. Camarena.

8           THE WITNESS:  Oh.

9           MS. CAMARENA:  Yeah, we could provide those.

10          JUDGE DUGGAN:  Okay.  And are you willing to do  
11     so?

12          MS. CAMARENA:  Yes, your Honor.

13          JUDGE DUGGAN:  Okay.

14     BY JUDGE DUGGAN:

15          Q     Okay.  Now, it seems like one of your major  
16     concerns that you're raising is the mall traffic  
17     itself.  Is that a fair characterization?

18          A     No.  Our concern is that BNSF is not in  
19     favor of the addition of any new at-grade crossings,  
20     and this frontage road would be a new at-grade  
21     crossing.  If I am understanding the plan correctly,  
22     this frontage road is primarily to serve the proposed

1 or expected businesses to the south of Illinois 13,  
2 not concerning any access to the mall area to the  
3 north.

4 Q Okay. But I thought that you were  
5 suggesting that the mall traffic may come down on  
6 Skyline Road and enter the frontage road and go to  
7 Marathon that way and that that might cause a backup  
8 to the grade crossing is what I thought you said.

9 A No. The traffic going east across the  
10 railroad tracks on the proposed frontage road  
11 potentially could back up, not saying that that would  
12 happen, but we have seen concerns. And this was  
13 presented in communication between IDOT and BNSF  
14 between Mr. Rasmussen and IDOT that traffic could  
15 queue onto the tracks turning north onto Marathon  
16 Drive making a left-hand turn.

17 Q Correct. Okay.

18 And whatever the traffic count  
19 presently is on Route 13, once there's an overpass,  
20 would you agree that not every car is going to go  
21 down Skyline Road and enter onto the frontage road?

22 A I would agree that some percentage of cars

1 would not go down the frontage road. What  
2 percentage, I'm not sure.

3 Q Because there's only so many vehicles and  
4 only so many are going to the mall, the number that  
5 presently crosses an at-grade crossing would be less  
6 if there was an overpass on 13 and a frontage road?

7 A That is correct. But in the petitioner's  
8 design and the Illinois Department of  
9 Transportation's design, part of the desire of the  
10 frontage road is to serve future use and development  
11 which could increase the number of cars going  
12 directly to those businesses, not just to the mall.

13 So potentially in the next 10,  
14 15 years, the area to the south of Illinois 13 could  
15 develop several businesses and mixed commercial and  
16 recreational use which could increase the number of  
17 cars going over the at-grade crossing which would be  
18 exclusively for the businesses to the south of  
19 Illinois 13, not exclusively for traffic going to the  
20 mall.

21 Q Okay. And last, I believe, is that when  
22 you were asked about the area south of 13 between --

1 west of the railroad between Skyline Road, and you  
2 suggested there could be another frontage road there  
3 I believe; is that correct?

4 A There could be a frontage road that would  
5 stop at the BNSF right-of-way.

6 Q Okay. And so you have no objection to  
7 frontage roads that cover the area proposed except  
8 that they do not cross the tracks; is that correct?

9 A Correct. And in my view, BNSF would not  
10 sell any of the right-of-way within 50 feet of the  
11 tracks or the current right-of-way that we have.  
12 Therefore, no businesses would need to be located or  
13 no traffic would need to traverse through the BNSF  
14 tracks to access any businesses on the west or the  
15 east side of the tracks. Therefore, an access road  
16 on the east and an access road on the west would  
17 serve all those business' needs.

18 Q I didn't really follow that.

19 A So essentially a frontage road coming from  
20 the west going east could be built that did not  
21 intersect BNSF tracks and could serve any potential  
22 development, and a frontage road coming from the east



1 going west could be built up to the BNSF right-of-way  
2 that could serve any businesses or potential  
3 development on the east.

4 Q How did that relate to your statement that  
5 BNSF wouldn't be selling anything within 50 feet of  
6 its right-of-way?

7 A Well, that would indicate that there would  
8 not be the need for a road going over BNSF  
9 right-of-way because there would not be a need to  
10 have access within that 50 feet by the public.

11 JUDGE DUGGAN: Okay. All right. I have no  
12 other questions.

13 Ms. Camarena.

14 MS. CAMARENA: Not at this time.

15 JUDGE DUGGAN: I'm sorry. Mr. Prendergast.

16 MR. PRENDERGAST: Nothing further, your Honor.

17 JUDGE DUGGAN: Ms. Camarena.

18 MS. CAMARENA: No.

19 JUDGE DUGGAN: Mr. Saladino.

20 MR. SALADINO: No, your Honor.

21 JUDGE DUGGAN: Okay. Are you going to  
22 introduce your exhibits, Mr. Prendergast?

1           MR. PRENDERGAST:   Yes, your Honor.

2                       I'd like Exhibit 2 to be part of the

3   record since there was testimony concerning that.

4   And, you know, for purposes of demonstration and

5   explaining testimony, I would offer it with regard to

6   that.

7                       And then I would offer to admit

8   Exhibit 3 and Exhibit 6 and Exhibit 7 into evidence.

9           JUDGE DUGGAN:   Any objection, Ms. Camarena?

10          MS. CAMARENA:   No, no objections.

11          JUDGE DUGGAN:   Mr. Saladino?

12          MR. SALADINO:   No, your Honor.

13          JUDGE DUGGAN:   Exhibits 2, 3, 6 and 7 will be

14   admitted into evidence.

15                               (Whereupon, Respondent's Exhibit

16                               Nos. 2, 3, 6 and 7 were

17                               admitted into evidence.)

18          JUDGE DUGGAN:   Do you have originals there to

19   be marked?

20          MR. PRENDERGAST:   I do.   I could send those if

21   you'd like.

22          JUDGE DUGGAN:   Yeah.   Why don't you mark them

1     for the court reporter.   And do you have spare  
2     copies?

3             MR. PRENDERGAST:   Yeah, I have the originals  
4     and spares, your Honor.

5             JUDGE DUGGAN:   Okay.   Good deal.   Have them  
6     marked, and then we can have them put in interoffice  
7     mail through, I think -- well, nobody's outside,  
8     right?

9             MR. PRENDERGAST:   Probably not.

10            JUDGE DUGGAN:   You can get them to me, how's  
11     that?

12            MR. PRENDERGAST:   Sure.

13            JUDGE DUGGAN:   Okay.   Let's see.   We need to  
14     address Ms. Camarena's request that your proposed  
15     plan be submitted to IDOT for consideration, and you  
16     said you didn't understand what she was asking.

17            MR. PRENDERGAST:   Yeah.   I thought that IDOT  
18     was going to submit some signal plans for everybody  
19     to review, and then we're going to take them up at  
20     the next hearing date.

21            JUDGE DUGGAN:   Right.

22            MR. PRENDERGAST:   And that they were going to

1 submit them in 21 days. BNSF has not made any signal  
2 schematics in any way. And so there's really nothing  
3 to forward.

4 JUDGE DUGGAN: Okay. Well, I think that -- I  
5 think everybody agreed that IDOT, Mr. Saladino is  
6 going to try and come up with something to submit to  
7 you and they were going to try to submit that within  
8 14 days, I think. And then that would be available  
9 to review at a hearing in 30 days.

10 But what I think Ms. Camarena was  
11 asking was that Mr. Thompson was basically proposing  
12 a different traffic design here, and I believe that  
13 she was asking that that plan be submitted for IDOT  
14 review. Was that fair or not?

15 MS. CAMARENA: That is correct, yes. That was  
16 what I was referring to.

17 JUDGE DUGGAN: And you said you didn't  
18 understand what she was asking.

19 So the plan that Mr. Thompson just  
20 testified to is what she would like to review. I  
21 guess, do you have anything more than what you  
22 presented?

1           MR. PRENDERGAST: No, your Honor.

2           JUDGE DUGGAN: Is it clear enough on the record

3   what they're saying?

4           MS. CAMARENA: Yeah, that's fine.

5           JUDGE DUGGAN: Okay. They're nodding heads

6   here so...

7           MR. SALADINO: Your Honor, if I may interject.

8   I think Mr. Thompson's submittal of his, I guess,

9   view of an alternate plan was submitted by BNSF

10   already, and I think that's Exhibits 2, 3 that were

11   just entered. And so I believe Ms. Camarena was just

12   asking that they be allowed to review it and have a

13   little bit of time and still be able to comment at

14   the next hearing.

15          MS. CAMARENA: Yes.

16          JUDGE DUGGAN: Sure, absolutely.

17          MR. SALADINO: Does that clear everything up?

18          MS. CAMARENA: Yes.

19          MR. PRENDERGAST: Yes. That's fine. That

20   would be fine.

21          JUDGE DUGGAN: And then let me say this then:

22   I haven't got any idea how these parcels are

1 landlocked. I can't see anything on the map.  
2 Apparently the roads -- whatever roads were there  
3 aren't shown. I just can't see it.

4 So I was taking Mr. Hansen at his word  
5 in his testimony that they're landlocked. I don't  
6 know how many people are affected. I have no way of  
7 seeing alternatives. BNSF really didn't offer an  
8 alternative because you didn't even know it was  
9 landlocked. So I suppose these things would be  
10 helpful if people could put this in a format that  
11 everyone might be able to understand what the issue  
12 is and see if there's, you know -- what options there  
13 are or how significant the issue really is.

14 So your witnesses are suggesting that  
15 they may be able to be helpful in that, Ms. Camarena.  
16 So the same for BNSF. To the extent that you can  
17 promote your position by showing how easy it is to do  
18 something else, that would be great.

19 So if there's nothing else today --  
20 let's see -- then I'll just get a date -- let's go  
21 off the record for a second.  
22

1                               (Whereupon, a discussion was had  
2                               off the record.)  
3               JUDGE DUGGAN: Go on the record.  
4                               As I stated, IDOT is going to submit a  
5       copy of their proposed signal plan filing it on the  
6       E-docket within 14 days of today and also submit it  
7       to BNSF.  
8                               And that concludes the hearing for  
9       today.  
10                              (Whereupon, the above-entitled  
11                              matter was continued sine die.)  
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